

Supreme Court of the State of New York
Appellate Division: Second Judicial Department

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C/hu

____AD3d____

Submitted - April 26, 2012

PETER B. SKELOS, J.P.
ANITA R. FLORIO
SHERI S. ROMAN
ROBERT J. MILLER, JJ.

2009-04977

DECISION & ORDER

The People, etc., respondent,
v Raymond Rossetti, appellant.

(Ind. No. 20/03)

Terry D. Horner, Poughkeepsie, N.Y., for appellant.

Adam B. Levy, District Attorney, Carmel, N.Y. (Mary Jane MacCrae of counsel), for respondent.

Appeal by the defendant from a resentencing of the County Court, Putnam County (Reitz, J.), imposed December 2, 2008, upon remittitur from this Court (*see People v Rossetti*, 55 AD3d 637), upon his convictions of assault in the first degree and driving while intoxicated, upon his plea of guilty.

ORDERED that the resentencing is affirmed.

Contrary to the contention of the defendant, the County Court, which, upon remittitur, had the “discretion” to “afford” him “an opportunity to withdraw his plea” (*People v Rossetti*, 55 AD3d 637, 737), properly denied his request to withdraw his plea of guilty. A defendant’s request to withdraw a plea of guilty should “not be granted merely for the asking” (*People v Alexander*, 97 NY2d 482, 485), and the defendant, whose plea was knowingly, voluntarily, and intelligently made (*see People v Harris*, 61 NY2d 9, 17), failed to articulate a persuasive reason warranting vacatur of the plea.

SKELOS, J.P., FLORIO, ROMAN and MILLER, JJ., concur.

ENTER:



Aprilanne Agostino
Clerk of the Court

May 30, 2012

PEOPLE v ROSSETTI, RAYMOND