

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

D36642
C/hu

_____AD3d_____

Submitted - November 14, 2012

MARK C. DILLON, J.P.
L. PRISCILLA HALL
SHERI S. ROMAN
JEFFREY A. COHEN, JJ.

2011-02451
2011-02452

DECISION & ORDER

The People, etc., respondent,
v Mitch Joe Mercado, also known as Mitch Mercado,
appellant.

(Ind. No. 67-10, S.C.I. No. 1503-10)

Robert C. Mitchell, Riverhead, N.Y. (Alfred J. Cicale of counsel), for appellant.

Thomas J. Spota, District Attorney, Riverhead, N.Y. (Lauren Tan of counsel), for respondent.

Appeals by the defendant from two judgments of the County Court, Suffolk County (Braslow, J.), both rendered February 9, 2011, convicting him of grand larceny in the third degree under Indictment No. 67-10, upon his plea of guilty, and imposing sentence, and grand larceny in the third degree under Superior Court Information No. 1503-10, upon his plea of guilty, and imposing sentence.

ORDERED that the judgments are affirmed.

The People correctly argue that the defendant's challenge to his enhanced sentences, which the County Court imposed because the defendant violated his plea agreements, is unpreserved for appellate review (*see People v Scoca*, 38 AD3d 801). In any event, the court providently exercised its discretion in imposing enhanced sentences, because the defendant violated the terms of the plea agreements by assaulting his girlfriend during the period between when his pleas were entered and the time when the sentences were imposed (*see People v Whaley*, 74 AD3d 1641, 1642; *People v Guerra*, 291 AD2d 410, 411).

December 5, 2012

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The defendant received the effective assistance of counsel (*see People v Benevento*, 91 NY2d 708; *People v Baldi*, 54 NY2d 137).

DILLON, J.P., HALL, ROMAN and COHEN, JJ., concur.

ENTER:


Aprilanne Agostino
Clerk of the Court