

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

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Submitted - November 28, 2012

REINALDO E. RIVERA, J.P.  
THOMAS A. DICKERSON  
JOHN M. LEVENTHAL  
PLUMMER E. LOTT, JJ.

2011-03106

DECISION & ORDER

The People, etc., respondent,  
v Terrence E. Tuffini, appellant.

(Ind. No. 2980-10)

Salvatore C. Adamo, New York, N.Y., for appellant.

Thomas J. Spota, District Attorney, Riverhead, N.Y. (Anne E. Oh of counsel), for respondent.

Appeal by the defendant from a judgment of the County Court, Suffolk County (Condon, J.), rendered March 28, 2011, convicting him of burglary in the third degree, upon his plea of guilty, and imposing sentence.

ORDERED that the judgment is affirmed.

Although a claim that a plea of guilty was not voluntary survives a valid waiver of the right to appeal (*see People v Seaberg*, 74 NY2d 1, 10), the defendant's contention that his plea was not voluntary is unreserved for appellate review because he did not move to vacate his plea or otherwise raise this issue before the County Court (*see People v Perez*, 51 AD3d 1043). In any event, a plea of guilty will be upheld as valid if it was entered knowingly, voluntarily, and intelligently (*see People v Fiumefreddo*, 82 NY2d 536, 543; *People v Lopez*, 71 NY2d 662, 666; *People v Harris*, 61 NY2d 9, 17). Here, the defendant's plea of guilty was entered knowingly, voluntarily, and intelligently.

The defendant received the effective assistance of counsel (*see People v Benevento*,

December 19, 2012

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91 NY2d 708; *People v Baldi*, 54 NY2d 137).

RIVERA, J.P., DICKERSON, LEVENTHAL and LOTT, JJ., concur.

ENTER:

  
Aprilanne Agostino  
Clerk of the Court