

SUPREME COURT OF THE STATE OF NEW YORK
Appellate Division, Fourth Judicial Department

1341

KA 07-02034

PRESENT: HURLBUTT, J.P., CENTRA, FAHEY, CARNI, AND PINE, JJ.

THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

RANSOM Z. SMITH, DEFENDANT-APPELLANT.

KRISTIN F. SPLAIN, CONFLICT DEFENDER, ROCHESTER (KIMBERLEY J. CZAPRANSKI OF COUNSEL), FOR DEFENDANT-APPELLANT.

MICHAEL C. GREEN, DISTRICT ATTORNEY, ROCHESTER (NANCY A. GILLIGAN OF COUNSEL), FOR RESPONDENT.

Appeal from a judgment of the Supreme Court, Monroe County (Joseph D. Valentino, J.), rendered March 29, 2005. The judgment convicted defendant, upon his plea of guilty, of sexual abuse in the first degree.

It is hereby ORDERED that the judgment so appealed from is unanimously affirmed.

Memorandum: Defendant appeals from a judgment convicting him upon his plea of guilty of sexual abuse in the first degree (Penal Law § 130.65 [3]). He contends that his guilty plea was not knowingly, intelligently and voluntarily entered because Supreme Court failed to inform him that he would be certified as a sex offender pursuant to the Sex Offender Registration Act (Correction Law § 168 *et seq.*) as a consequence of his plea. Even assuming, *arguendo*, that defendant was not required to preserve that contention for our review (*see generally People v Louree*, 8 NY3d 541, 545-546), we conclude that it lacks merit. Certification as a sex offender "is a collateral consequence of the plea and thus the failure to advise defendant of that consequence does not undermine the voluntariness of the plea" (*People v Smith*, 37 AD3d 1141, 1142, *lv denied* 9 NY3d 851, 926).

Entered: November 13, 2009

Patricia L. Morgan
Clerk of the Court