

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

D55683
T/htr

_____AD3d_____

Submitted - January 23, 2018

MARK C. DILLON, J.P.
LEONARD B. AUSTIN
ROBERT J. MILLER
SYLVIA O. HINDS-RADIX, JJ.

2016-13177

DECISION & ORDER

The People, etc., respondent,
v Donnie P. Smith, appellant.

(Ind. No. 294/16)

Philip H. Schnabel, Chester, NY, for appellant.

David M. Hoovler, District Attorney, Middletown, NY (Robert H. Middlemiss of counsel), for respondent.


Appeal by the defendant from a judgment of the County Court, Orange County (Craig Stephen Brown, J.), rendered November 29, 2016, convicting him of criminal possession of a weapon in the third degree, upon his plea of guilty, and imposing sentence.

ORDERED that the judgment is affirmed.

The record demonstrates that the defendant knowingly, voluntarily, and intelligently waived his right to appeal (*see People v Sanders*, 25 NY3d 337, 341-342; *People v Scanlon*, 143 AD3d 746). The defendant's waiver of his right to appeal limits this Court's review to issues regarding the voluntariness of the plea, including issues of ineffective assistance of counsel that affected the voluntariness of the plea (*see People v Parilla*, 8 NY3d 654, 660; *People v Flowers*, 152 AD3d 791). There is nothing in this record indicating that the defendant's plea of guilty was involuntary, or that counsel's performance affected the voluntariness of the defendant's plea of guilty.

DILLON, J.P., AUSTIN, MILLER and HINDS-RADIX, JJ., concur.

ENTER:


Aprilanne Agostino
Clerk of the Court

June 13, 2018

PEOPLE v SMITH, DONNIE P.