

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

D55708
O/hr

_____AD3d_____

Submitted - February 13, 2018

RUTH C. BALKIN, J.P.
LEONARD B. AUSTIN
SANDRA L. SGROI
VALERIE BRATHWAITE NELSON, JJ.

2016-10811

DECISION & ORDER

The People, etc., respondent,
v Darguin J. Martinezdiaz, appellant.

(Ind. No. 1363-15)

Laurette D. Mulry, Riverhead, NY (Alfred J. Cicale of counsel), for appellant.

Timothy D. Sini, District Attorney, Riverhead, NY (Timothy P. Finnerty of counsel),
for respondent.

Appeal by the defendant from a judgment of the County Court, Suffolk County (John J. Toomey, J.), rendered September 15, 2016, convicting him of rape in the first degree, upon his plea of guilty, and imposing sentence.

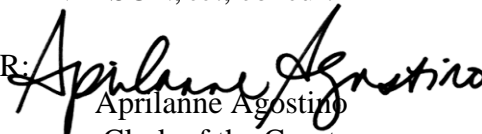
ORDERED that the judgment is affirmed.

The defendant's challenge to the supplemental sex offender victim fee imposed upon him is barred by his valid waiver of the right to appeal (*see People v Char*, 153 AD3d 724).

To the extent that the defendant contends that his plea was not knowingly, intelligently, and voluntarily entered because he was not advised at the time he entered his plea that he would be assessed a supplemental sex offender victim fee, that contention survives the defendant's waiver of his right to appeal (*see People v Seaberg*, 74 NY2d 1, 10). Nevertheless, the contention is without merit, since the plea court was not required to inform the defendant about the supplemental fee, which was not a component of his sentence (*see People v Hoti*, 12 NY3d 742, 743; *People v Guerrero*, 12 NY3d 45; *People v Bautista*, 138 AD3d 754; *People v Cooks*, 107 AD3d 734; *cf. People v Gravino*, 14 NY3d 546, 556-557).

BALKIN, J.P., AUSTIN, SGROI and BRATHWAITE NELSON, JJ., concur.

ENTER:


Aprilanne Agostino
Clerk of the Court

June 20, 2018

PEOPLE v MARTINEZDIAZ, DARGUIN J.