

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

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_____AD3d_____

Submitted - May 15, 2018

ALAN D. SCHEINKMAN, P.J.
MARK C. DILLON
JEFFREY A. COHEN
LINDA CHRISTOPHER, JJ.

2016-01044

DECISION & ORDER

The People, etc., respondent,
v Charlene Ruiz, appellant.

(Ind. No. 14-01480)

Arza Feldman, Uniondale, NY, for appellant.

Anthony A. Scarpino, Jr., District Attorney, White Plains, NY (Virginia A. Marciano and William C. Milaccio of counsel), for respondent.


Appeal by the defendant from a judgment of the Supreme Court, Westchester County (Barry E. Warhit, J.), rendered January 7, 2016, convicting her of gang assault in the first degree and tampering with physical evidence, upon her plea of guilty, and imposing sentence.

ORDERED that the judgment is affirmed.

The defendant failed to preserve for appellate review her contention that her plea was not knowing, voluntary, and intelligent, since she withdrew her motion to vacate her plea and failed to otherwise raise this issue before the Supreme Court (*see People v Clarke*, 93 NY2d 904, 906; *People v Morgado*, 144 AD3d 709, 710). In any event, contrary to the defendant's contention, the record demonstrates that she knowingly, voluntarily, and intelligently pleaded guilty and waived her right to appeal (*see People v Seeber*, 4 NY3d 780, 781; *People v Smith*, 146 AD3d 904, 904-905). The defendant's valid waiver of her right to appeal forecloses appellate review of her challenge to the factual sufficiency of her plea allocution (*see People v Mendoza*, 153 AD3d 1365; *People v Thompson*, 143 AD3d 1007).

SCHEINKMAN, P.J., DILLON, COHEN and CHRISTOPHER, JJ., concur.

ENTER:


Aprilanne Agostino
Clerk of the Court

August 29, 2018

PEOPLE v RUIZ, CHARLENE