

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

D57522
T/htr

_____AD3d_____

Submitted - June 22, 2018

ALAN D. SCHEINKMAN, P.J.
WILLIAM F. MASTRO
BETSY BARROS
FRANCESCA E. CONNOLLY, JJ.

2017-03795

DECISION & ORDER

The People, etc., respondent,
v Saad Sidique, appellant.

(S.C.I. No. 302/17)

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

Timothy D. Sini, District Attorney, Riverhead, NY (Thomas C. Costello of counsel),
for respondent.

Appeal by the defendant from a judgment of the County Court, Suffolk County
(Barbara Kahn, J.), rendered March 8, 2017, convicting him of rape in the third degree, upon his plea
of guilty, and imposing sentence.

ORDERED that the judgment is affirmed.

The defendant failed to preserve for appellate review his challenge to the validity of his plea of guilty, as he did not move to withdraw the plea, or otherwise raise the issue before the County Court (*see People v Ellis*, 142 AD3d 509, 510; *People v Gomez*, 114 AD3d 701, 701). Moreover, contrary to the defendant's contention, the narrow exception to the preservation rule is inapplicable here, as nothing in the plea allocution cast doubt upon the defendant's guilt, negated an essential element of the crime, or called into question the voluntariness of the plea (*see People v Lopez*, 71 NY2d 662, 666; *People v Ellis*, 142 AD3d at 510; *People v Gomez*, 114 AD3d at 701-702). In any event, the defendant knowingly and voluntarily allocuted to the facts constituting the offense, while under oath at the plea proceeding, and the plea was knowingly, voluntarily, and intelligently made (*see People v Ellis*, 142 AD3d at 510; *People v Gomez*, 114 AD3d at 702). Contrary to the defendant's contention, certain postplea statements attributed to the defendant in the

presentence report did not obligate the sentencing court to conduct a sua sponte inquiry into the validity of the defendant's plea of guilty (*see People v Ellis*, 142 AD3d at 510; *People v Appling*, 94 AD3d 1135, 1136; *People v Kelly*, 50 AD3d 921, 921).

SCHEINKMAN, P.J., MASTRO, BARROS and CONNOLLY, JJ., concur.

ENTER:

A handwritten signature in black ink that reads "Aprilanne Agostino". The signature is written in a cursive, flowing style.

Aprilanne Agostino
Clerk of the Court