

State of New York
Supreme Court, Appellate Division
Third Judicial Department

Decided and Entered: July 26, 2007

100857

THE PEOPLE OF THE STATE OF
NEW YORK,

Respondent,

v

MEMORANDUM AND ORDER

DONNA ARROYO,

Appellant.

Calendar Date: May 29, 2007

Before: Cardona, P.J., Crew III, Peters, Mugglin and
Lahtinen, JJ.

Paul J. Connolly, Delmar, for appellant.

James Sacket, District Attorney, Schoharie (Thomas F.
Garner of counsel), for respondent.

Cardona, P.J.

Appeal from a judgment of the County Court of Schoharie County (Bartlett III, J.), rendered April 28, 1999, convicting defendant upon her plea of guilty of the crime of murder in the first degree.

Defendant entered a plea of guilty to murder in the first degree in satisfaction of a five-count indictment. Prior to sentencing, she moved to withdraw her plea on the ground that, because of her mental condition and the effects of her medication, her plea was not voluntary, knowing and intelligent. County Court denied the motion without a hearing and sentenced defendant to 25 years to life in prison in accordance with the plea agreement. On this appeal, defendant contends that her

motion should have been granted or, at minimum, County Court should have conducted a hearing.

Whether a defendant should be permitted to withdraw a guilty plea rests within the sound discretion of the trial court (see People v Alexander, 97 NY2d 482, 485 [2002]; People v Criscitello, 32 AD3d 1112, 1113 [2006]), as does the need for an evidentiary hearing on such a motion (see People v Frederick, 45 NY2d 520, 524-525 [1978]; People v Criscitello, supra at 1113). Upon our review of defendant's motion papers which contained no claim of innocence (see People v Bagley, 298 AD2d 616, 616 [2002]), her detailed plea allocution (see generally People v Lawrence, 34 AD3d 984 [2006]), and County Court's thorough and well-reasoned decision, we conclude that the court did not abuse its discretion in denying the motion without a hearing.

Crew III, Peters, Mugglin and Lahtinen, JJ., concur.

ORDERED that the judgment is affirmed.

ENTER:

A handwritten signature in black ink, appearing to read "Michael J. Novack". The signature is fluid and cursive, with a large loop at the end.

Michael J. Novack
Clerk of the Court