

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

Decided and Entered: February 2, 2012

103404

THE PEOPLE OF THE STATE OF
NEW YORK,

Respondent,

v

MEMORANDUM AND ORDER

LARRY WALKER-LLANOS,

Appellant.

Calendar Date: January 6, 2012

Before: Mercure, Acting P.J., Spain, Kavanagh, Stein and
Egan Jr., JJ.

Aaron A. Louridas, Delmar, for appellant.

Robert M. Carney, District Attorney, Schenectady (Gerald A.
Dwyer of counsel), for respondent.

Egan Jr., J.

Appeal from a decision of the County Court of Schenectady
County (Giardino, J.), dated April 1, 2010, which denied
defendant's motion for resentencing pursuant to CPL 440.46.

Defendant pleaded guilty to various felony drug offenses
and was sentenced as a second felony offender to concurrent
prison terms of 8 to 16 years. Thereafter, defendant petitioned
for resentencing pursuant to the Drug Law Reform Act of 2009 (L
2009, ch 56, codified in CPL 440.46). County Court denied the
application from the bench and this appeal ensued.

Absent County Court's bench decision being reduced to a
written order as required by the Drug Law Reform Act (L 2004, ch

738, § 23), this Court does not have jurisdiction to consider defendant's appeal and the matter must be remitted to County Court for issuance of an appropriate order (People v Civitello, 89 AD3d 1244 [2011]; People v Buckery, 84 AD3d 1588, 1589 [2011]).

Mercure, Acting P.J., Spain, Kavanagh and Stein, JJ.,
concur.

ORDERED that the appeal is dismissed, and matter remitted to the County Court of Schenectady County for further proceedings not inconsistent with this Court's decision.

ENTER:

A handwritten signature in black ink that reads "Robert D. Mayberger". The signature is written in a cursive, slightly slanted style.

Robert D. Mayberger
Clerk of the Court