

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

Decided and Entered: June 28, 2012

104134

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THE PEOPLE OF THE STATE OF  
NEW YORK,

Respondent,

v

MEMORANDUM AND ORDER

EDWARD R. DEJESUS,

Appellant.

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Calendar Date: May 24, 2012

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

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Theresa M. Suozzi, Saratoga Springs, for appellant.

Gerald F. Mollen, District Attorney, Binghamton (Joann Rose  
Parry of counsel), for respondent.

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McCarthy, J.

Appeal from a judgment of the County Court of Broome County  
(Cawley, J.), rendered March 4, 2011, convicting defendant upon  
his plea of guilty of the crime of criminal contempt in the first  
degree.

Defendant waived indictment and pleaded guilty to a  
superior court information charging him with criminal contempt in  
the first degree for violating an order of protection. County  
Court sentenced him to nine months in jail. Defendant now  
appeals.

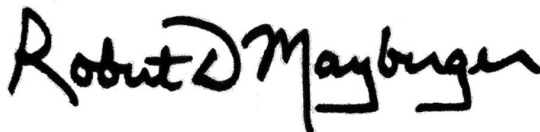
We affirm. Inasmuch as the record before us does not  
indicate that defendant moved to withdraw his plea or vacate the

judgment of conviction, his challenge to the voluntariness of his plea has not been preserved for our review and defendant made no statements that would implicate the narrow exception to the preservation requirement (see People v Stewart, 92 AD3d 1146, 1147 [2012]; People v Teele, 92 AD3d 972, 972 [2012]). In any event, County Court engaged in a lengthy, detailed colloquy with defendant regarding the rights he was relinquishing and the possible consequences of his plea, including deportation. Likewise, defendant's claim of ineffective assistance of counsel, to the extent that it impacted the voluntariness of his plea, is unpreserved by the lack of evidence in the record that he has moved to withdraw the plea or vacate the judgment of conviction (see People v Carpenter, 93 AD3d 950, 952 [2012], lv denied \_\_\_ NY3d \_\_\_ [May 18, 2012]; People v Benson, 87 AD3d 1228, 1228-1229 [2011]). Notwithstanding, his claim that counsel pressured him into pleading guilty without adequately exploring potential defenses involves matters outside the record and is, therefore, more appropriately the subject of a CPL article 440 motion (see People v Davis, 84 AD3d 1645, 1646 n [2011], lv denied 17 NY3d 815 [2011]; People v Pendelton, 81 AD3d 1037, 1038-1039 [2011], lv denied 16 NY3d 898 [2011]). Defendant's remaining contention, that his sentence was harsh and excessive, has been examined and found to be without merit.

Mercure, J.P., Kavanagh, Stein and Egan Jr., JJ., concur.

ORDERED that the judgment is affirmed.

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