
THE PEOPLE OF THE STATE OF
NEW YORK,

Respondent,

v

MEMORANDUM AND ORDER

EFRAIM NEGRON,

Appellant.

Calendar Date: September 5, 2001

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

Randall E. Kehoe, Albany, for appellant.

Robert M. Carney, District Attorney (Michele Schettino, Law
Intern), Schenectady, for respondent.

Mercure, J.

Appeal from a judgment of the County Court of Schenectady
County (Eidens, J.), rendered March 16, 1999, convicting
defendant upon his plea of guilty of two counts of the crime of
burglary in the third degree.

Following the commencement of a suppression hearing and
presentation of the People's first witness, defendant pleaded
guilty to two counts of burglary in the third degree and waived
his right to appeal in satisfaction of a four-count indictment.
Defendant was sentenced in accordance with the plea agreement to
consecutive prison terms of 1½ to 4½ years. Defendant appeals,

contending that his plea was involuntary due to ineffective assistance of counsel at the suppression hearing.

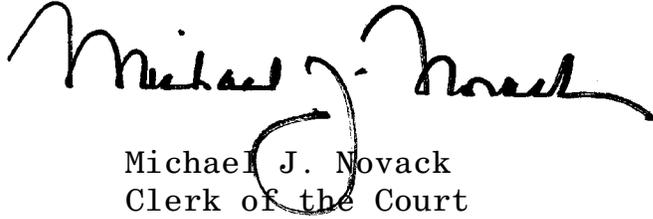
Although defendant's waiver of his right to appeal does not preclude our review of the claims regarding the effective assistance of counsel or the voluntariness of his guilty plea (see, People v Ellis, 268 AD2d 895, 896, lv denied 95 NY2d 796), given defendant's failure to either move to vacate the judgment of conviction or to withdraw his guilty plea he has failed to preserve such issues for our review (see, People v Smith, 263 AD2d 676, lv denied 93 NY2d 1027; People v Depta, 257 AD2d 916, lv denied 93 NY2d 923).

Were we to consider defendant's contentions, we would find them to be without merit. Defendant's assertion that defense counsel's "abridged" cross-examination of the initial witness called at the suppression hearing forced him to enter into a guilty plea is unpersuasive, especially in light of the favorable plea bargain received by defendant (see, People Gibson, 261 AD2d 710). Furthermore, notwithstanding defendant's contention to the contrary, there is nothing in the record to cast doubt on the voluntariness of defendant's plea or that he received anything other than meaningful representation (see, People v Lindsey, 283 AD2d 782; People v Ferreri, 271 AD2d 805, lv denied 95 NY2d 834).

Cardona, P.J., Crew III, Peters 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 written in a cursive style with a large, prominent initial "M".

Michael J. Novack
Clerk of the Court