
This memorandum is uncorrected and subject to revision before
publication in the New York Reports.

No. 218 SSM 23
The People &c.,
Respondent,
v.
Larry Brown,
Appellant.

Submitted by Claudia B. Flores, for appellant.
Submitted by John T. Hughes, for respondent.

MEMORANDUM:

The order of the Appellate Division should be affirmed.
Defendant's claims regarding the voluntariness of his
plea lack merit, and the Appellate Division properly affirmed the
trial court's denial of defendant's motion to withdraw his guilty

plea.

Additionally, defendant was sentenced as a first felony offender to a lawful prison term, 2 1/3 to 7 years, for such an offender. Defendant's new argument on this appeal -- contrary to his assertion to the plea court -- that his status as a first felony offender is erroneous; that, thus, his sentence is illegal as a matter of law; and that he must be resentenced as a second felony offender, is not established on this record. Accordingly, his request for resentencing, made for the first time on this direct appeal, fails, without prejudice to defendant, if he be so advised, moving pursuant to CPL 440.20 for re-sentencing.

* * * * *

On review of submissions pursuant to section 500.11 of the Rules, order affirmed, in a memorandum. Chief Judge DiFiore and Judges Pigott, Rivera, Abdus-Salaam, Stein, Fahey and Garcia concur.

Decided October 20, 2016