

**SUPREME COURT OF THE STATE OF NEW YORK**  
***Appellate Division, Fourth Judicial Department***

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**KA 05-02578**

PRESENT: SCUDDER, P.J., MARTOCHE, CENTRA, FAHEY, AND PERADOTTO, JJ.

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THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

GUILLERMO TORRES, III, DEFENDANT-APPELLANT.

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WILLIAM G. PIXLEY, ROCHESTER, FOR DEFENDANT-APPELLANT.

MICHAEL C. GREEN, DISTRICT ATTORNEY, ROCHESTER (JESSICA BIRKAHN HOUSEL OF COUNSEL), FOR RESPONDENT.

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Appeal from a judgment of the Supreme Court, Monroe County (Joseph D. Valentino, J.), rendered October 13, 2005. The judgment convicted defendant, upon his plea of guilty, of attempted murder in the second degree and assault in the first degree.

It is hereby ORDERED that the judgment so appealed from is unanimously reversed on the law, the plea is vacated, and the matter is remitted to Supreme Court, Monroe County, for further proceedings on the indictment.

Memorandum: Defendant appeals from a judgment convicting him upon his plea of guilty of attempted murder in the second degree (Penal Law §§ 110.00, 125.25 [1]) and assault in the first degree (§ 120.10 [1]). We agree with defendant that reversal and vacatur of the plea is required inasmuch as Supreme Court sentenced him to a period of postrelease supervision but failed to advise him thereof at the time of the plea (see *People v Louree*, 8 NY3d 541, 545-546; *People v Catu*, 4 NY3d 242, 245; *People v Trisvan*, 53 AD3d 1057). In light of our determination, we need not address defendant's remaining contention.

Entered: February 6, 2009

JoAnn M. Wahl  
Clerk of the Court