

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

378

KA 08-00375

PRESENT: HURLBUTT, J.P., MARTOCHE, FAHEY, CARNI, AND GORSKI, JJ.

THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

WALLACE R. SCHROM, DEFENDANT-APPELLANT.

SHIRLEY A. GORMAN, ALBION, FOR DEFENDANT-APPELLANT.

R. MICHAEL TANTILLO, DISTRICT ATTORNEY, CANANDAIGUA (JEFFREY L. TAYLOR OF COUNSEL), FOR RESPONDENT.

Appeal from a judgment of the Ontario County Court (Craig J. Doran, J.), rendered March 6, 2007. The judgment convicted defendant, upon his plea of guilty, of burglary in the second degree.

It is hereby ORDERED that the judgment so appealed from is unanimously affirmed.

Memorandum: Defendant appeals from a judgment convicting him, upon his plea of guilty, of burglary in the second degree (Penal Law § 140.25 [2]). Defendant failed to preserve for our review his contention that County Court erred in setting the duration of the order of protection pursuant to the version of CPL 530.13 (4) in effect at the time the judgment was rendered rather than the version in effect at the time of his commission of the crime, and we decline to exercise our power to review that contention as a matter of discretion in the interest of justice (*see People v Ruz*, 70 NY2d 942; *People v Whitfield*, 50 AD3d 1580, lv denied 10 NY3d 965).

Entered: March 20, 2009

JoAnn M. Wahl
Clerk of the Court