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

No. 62 SSM 62
The People &c.,
Respondent,
v.
Patrick R. Ashley,
Appellant.

Submitted by John A. Cirando, for appellant.
Submitted by Jennifer M. Hollis, for respondent.

MEMORANDUM:

The order of the Appellate Division should be affirmed.

Defendant's challenge to his adjudication as a second violent felony offender and the sentence that was originally imposed is moot because County Court resentenced him as a first felony offender in a post-judgment CPL 440.20 proceeding that is

not a subject of this appeal. Defendant failed to preserve his argument that the guilty plea became involuntary after he was subsequently resentenced for a prior, unrelated criminal offense. Defendant's remaining contentions lack merit.

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On review of submissions pursuant to section 500.11 of the Rules, order affirmed, in a memorandum. Chief Judge Lippman and Judges Ciparick, Graffeo, Read, Smith and Jones concur. Judge Pigott took no part.

Decided January 6, 2011