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

No. 144 SSM 31
The People &c.,
Respondent,
v.
Phillip A. Dodson,
Appellant.

Submitted by Janet C. Somes, for appellant.
Submitted by Nancy Gilligan, for respondent.

MEMORANDUM:

The order of the Appellate Division should be reversed
and the case remitted to County Court for further proceedings in
accordance with this memorandum.

At a sentencing hearing following his guilty plea,
defendant asked for a new attorney to advise him on whether to
move to withdraw his plea before sentence was imposed.

Defendant's request was supported by specific allegations regarding counsel's performance (see People v Porto, 16 NY3d 93 [2010]). Under these circumstances, the court had a duty to inquire into defendant's request for new counsel before it proceeded to sentence defendant (see People v Sides, 75 NY2d 822 [1990]). Accordingly, defendant must be afforded the opportunity to decide whether to make a motion to withdraw his guilty plea upon the advice of counsel. Defendant's remaining contentions lack merit.

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On review of submissions pursuant to section 500.11 of the Rules, order reversed and case remitted to County Court, Monroe County, for further proceedings in accordance with the memorandum herein. Chief Judge DiFiore and Judges Rivera, Stein, Fahey, Garcia, Wilson and Feinman concur.

Decided November 21, 2017