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(Private Party Transactions)

Please Type or Print Clearly

1. Supreme Court, N.Y. County.

Part No. 21 Name of Judge/Justice Ward

2. Name of Case P v. Raphael Golb

3. Court Docket/File/Index Number _____ 4. Date(s) of Minutes Requested 4/16/18

5. Type of Proceeding (check one or more):

Arraignment _____ Application _____ Hearing _____ Plea _____ Trial _____ Sentence

Other (specify): _____

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Attorney/Party (signature)

12/5/19

Date of Agreement

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Name of Attorney/Party Ezra Haber
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SUPREME COURT OF THE STATE OF NEW YORK

NEW YORK COUNTY : CRIMINAL TERM : PART 71

- - - - -X

THE PEOPLE OF THE STATE OF NEW YORK : INDICTMENT NO.
2721 / 2009

- against -

RAPHAEL GOLB

Defendant : SENTENCE

- - - - -X

100 CENTRE STREET
NEW YORK, NEW YORK 10013

APRIL 16, 2018

BEFORE: HONORABLE LAURA A. WARD, JUSTICE

APPEARANCES:

CYRUS R. VANCE, JR., ESQ.
District Attorney, New York County
BY: ELIZABETH ROPER, ESQ.
Assistant District Attorney

RONALD KUBY, ESQ.
Attorney for Defendant
119 West 23rd Street
New York, New York

VINCENT M. GERALDI, III
SENIOR COURT REPORTER

1 THE CLERK: Calling calendar number 77,
2 indictment 2721 of 2009, Raphael Golb.

3 MR. KUBY: Ronald Kuby; 119 West 23rd Street,
4 New York, New York.

5 Good morning, Judge.

6 THE COURT: Good morning, Mr. Kuby.

7 MS. ROPER: For the People, Elizabeth Roper.

8 Good morning.

9 THE COURT: Good morning.

10 This is finally down for resentencing.

11 MR. KUBY: To paraphrase Vince Lombardi, I have
12 never lost any cases. I have just run out of Courts. You
13 are the last Court.

14 THE COURT: I just want to make sure that we are
15 all on the same page.

16 When I went back over the indictment and the
17 decision, there were five counts of Forgery in the
18 Third Degree still left--Counts 8, 11, 14, 17, and 20--and
19 three counts of criminal impersonation left.

20 MR. KUBY: Five.

21 THE COURT: It's Counts 7, 10, 13, 16, and 19.

22 MR. KUBY: I went over these with ADA Roper and
23 with formerly young Mr. Merker--now much older--when he
24 started. I don't recall the numbers of the counts, but I
25 do recall that we all agreed on which they were. There

1 were five of each, two counts each for the five
2 Schiffman (phonetic) e-mails.

3 THE COURT: After both of you spoke to
4 Mr. Merker, I pulled out the indictment and the decision
5 and I came out with these numbers--Counts 7, 8, 10, 11, 13,
6 14, 16, 17, 19, and 20. So, it's five each of Forgery in
7 the Third Degree and Criminal Impersonation in the
8 Second Degree.

9 MS. ROPER: I believe that's correct.

10 THE COURT: I am sure there is an I & S, but I
11 have read so many of these that I don't think I need to
12 read another one.

13 Arraign the defendant for sentence, please.

14 THE CLERK: Raphael Golb, you are being arraigned
15 for sentencing following your conviction after trial to
16 five counts of Forgery in the Third Degree and five counts
17 of Criminal Impersonation in the Second Degree.

18 Prior to sentencing, the Court will allow you,
19 your attorney, and the Assistant District Attorney an
20 opportunity to address the Court with respect to any
21 matters relevant to sentencing.

22 People?

23 MS. ROPER: The People will rely on the position
24 set forth in our response to the defendant's motion for
25 resentencing.

1 Our position is that the sentence should stand as
2 the Court previously issued it of two months of
3 incarceration for the reasons set forth. We don't believe
4 that the subsequent appellate litigation changes the
5 circumstances such that the sentence should be modified in
6 any way.

7 MR. KUBY: I find myself in the very odd position
8 of having almost nothing to say or at least nothing to say
9 that I haven't already said in the thousands of pages that
10 you have read before at least twice. You are one of the
11 two or three people who know more about this case than
12 anybody else on earth. Hopefully, that would remain, but
13 who knows what future legal archaeologists will do with
14 this.

15 The thing that stands out in my mind really--and
16 I just want to emphasize it briefly--is just how difficult
17 it's been for really really really smart judges to figure
18 out where the line draws in this case when three judges of
19 the Second Circuit say that six judges of the
20 Court of Appeals were not just wrong about nine of the
21 19 counts but that no reasonable jurors could reasonably
22 believe they were right. I didn't interpret that as the
23 Second Circuit saying the Court of Appeals was stupid. I
24 interpreted that as them saying that this is very very very
25 difficult stuff when you talk about criminalizing this type

1 of speech or, as you prefer, this type of conduct.

2 I have always maintained that this was not an
3 appropriate vehicle for the criminal justice system. I
4 certainly maintain that whatever reasons for incarceration
5 existed in July of 2014, when we were doing this before,
6 don't exist any longer. I would ask you to impose a term
7 of probation.

8 THE COURT: Mr. Golb, anything you wish to say,
9 sir?

10 THE DEFENDANT: No.

11 THE COURT: I think Mr. Golb has been punished
12 enough coming back to court as many times as he has on this
13 case. Therefore, I am going to sentence him on all of the
14 counts to five years of probation to run concurrently and
15 he will get credit for whatever time he has already done on
16 probation.

17 Do you want me to enter judgment?

18 MR. KUBY: I do.

19 As a technical matter, since these are all
20 misdemeanors, can you do five years of probation?

21 THE COURT: You're right.

22 MR. KUBY: I just don't want to come back.

23 THE COURT: It's three years of probation on all
24 of them to run concurrently.

25 Judgment is entered on the mandatory surcharge.

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Sir, I hope I never see you again.

MR. KUBY: He is not going to speak, but, trust me, he feels the same.

THE COURT: Ms. Roper, do you want an order of protection?

MS. ROPER: Yes.

These counts just pertain to Mr. Schiffman.


THE COURT: Sir, absolutely positively no contact with Mr. Schiffman. No phone calls, no letters, no face-to-face communication, and no messages through third parties.

If you violate the order of protection, you face additional charges of contempt.

MR. KUBY: Thank you, Judge.

* * * * *

CERTIFIED TO BE A TRUE AND ACCURATE
TRANSCRIPT OF THE ABOVE PROCEEDING.



VINCENT M. GERALDI, III
SENIOR COURT REPORTER