

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

1006

KA 12-02051

PRESENT: CENTRA, J.P., FAHEY, WHALEN, AND DEJOSEPH, JJ.

THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

CHERISE C. WASHINGTON, ALSO KNOWN AS
CHERICA MORRIS, DEFENDANT-APPELLANT.

LEANNE LAPP, PUBLIC DEFENDER, CANANDAIGUA (MICHAEL A. JONES, JR., OF
COUNSEL), FOR DEFENDANT-APPELLANT.

R. MICHAEL TANTILLO, DISTRICT ATTORNEY, CANANDAIGUA (JAMES B. RITTS OF
COUNSEL), FOR RESPONDENT.

Appeal from a judgment of the Ontario County Court (Craig J. Doran, J.), rendered September 24, 2012. The judgment convicted defendant, upon her plea of guilty, of burglary in the third degree and petit larceny.

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

Memorandum: Defendant appeals from a judgment convicting her upon her plea of guilty of burglary in the third degree (Penal Law § 140.20) and petit larceny (§ 155.25). Defendant contends that the delay following her initially scheduled sentencing date divested County Court of jurisdiction (see CPL 380.30 [1]; *People v Drake*, 61 NY2d 359, 366-367). Defendant failed to preserve her contention for our review inasmuch as she did not move to dismiss the indictment on that ground or otherwise object to the delay (see *People v Dissottle*, 68 AD3d 1542, 1543, *lv denied* 14 NY3d 799; see also *People v Diggs*, 98 AD3d 1255, 1256, *lv denied* 20 NY3d 986), and we decline to exercise our power to review that contention as a matter of discretion in the interest of justice (see CPL 470.15 [3] [c]).

Entered: October 3, 2014

Frances E. Cafarell
Clerk of the Court