

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

23

KA 12-02357

PRESENT: WHALEN, P.J., CENTRA, PERADOTTO, CARNI, AND SCUDDER, JJ.

THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

BENANCIO VASQUEZ, DEFENDANT-APPELLANT.

TIMOTHY P. DONAHER, PUBLIC DEFENDER, ROCHESTER (JANET C. SOMES OF COUNSEL), FOR DEFENDANT-APPELLANT.

SANDRA DOORLEY, DISTRICT ATTORNEY, ROCHESTER (STEPHEN X. O'BRIEN OF COUNSEL), FOR RESPONDENT.

Appeal from a judgment of the Monroe County Court (James J. Piampiano, J.), rendered March 23, 2012. The judgment convicted defendant, upon his plea of guilty, of course of sexual conduct against a child 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 course of sexual conduct against a child in the second degree (Penal Law § 130.80 [1] [b]). Defendant was sentenced to a determinate term of incarceration of five years to be followed by 10 years of postrelease supervision. The valid waiver by defendant of his right to appeal encompasses his challenge to the severity of the sentence (*see People v Lopez*, 6 NY3d 248, 256; *People v Hidalgo*, 91 NY2d 733, 737). In any event, we conclude that the sentence is not unduly harsh or severe.

Entered: March 25, 2016

Frances E. Cafarell
Clerk of the Court