

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

565

KA 15-00157

PRESENT: WHALEN, P.J., CARNI, NEMOYER, CURRAN, AND TROUTMAN, JJ.

THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

DENNIS TRIPLETT, ALSO KNOWN AS "NANNY,"
DEFENDANT-APPELLANT.

THE LEGAL AID BUREAU OF BUFFALO, INC., BUFFALO (KRISTIN M. PREVE OF
COUNSEL), FOR DEFENDANT-APPELLANT.

JOHN J. FLYNN, DISTRICT ATTORNEY, BUFFALO (DANIEL J. PUNCH OF
COUNSEL), FOR RESPONDENT.

Appeal from a judgment of the Supreme Court, Erie County (Penny M. Wolfgang, J.), rendered January 2, 2015. The judgment convicted defendant, upon his plea of guilty, of attempted murder in the second degree (three counts), assault in the first degree (three counts) and criminal possession of a weapon 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 three counts each of attempted murder in the second degree (Penal Law §§ 110.00, 125.25 [1]) and assault in the first degree (§ 120.10 [1]), and one count of criminal possession of a weapon in the second degree (§ 265.03 [1] [b]). Contrary to defendant's contention, the record establishes that he knowingly, voluntarily and intelligently waived the right to appeal (see *People v Smith*, 138 AD3d 1496, 1497; see generally *People v Lopez*, 6 NY3d 248, 256). We conclude that the valid waiver of the right to appeal encompasses defendant's challenge to Supreme Court's disqualification of his original attorney (see *People v Segrue*, 274 AD2d 671, 672, lv denied 95 NY2d 908). In any event, defendant failed to preserve that challenge for our review (see *People v Tineo*, 64 NY2d 531, 535-536), and we decline to exercise our power to review it as a matter of discretion in the interest of justice (see CPL 470.15 [3] [c]).

Entered: April 28, 2017

Frances E. Cafarell
Clerk of the Court