

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

1496

KA 14-01033

PRESENT: CENTRA, J.P., PERADOTTO, LINDLEY, CURRAN, AND TROUTMAN, JJ.

THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

BRANDON L. COCHRAN, DEFENDANT-APPELLANT.

DAVISON LAW OFFICE PLLC, CANANDAIGUA (MARY P. DAVISON OF COUNSEL), FOR DEFENDANT-APPELLANT.

SANDRA DOORLEY, DISTRICT ATTORNEY, ROCHESTER (LEAH R. MERVINE OF COUNSEL), FOR RESPONDENT.

Appeal from a judgment of the Monroe County Court (Victoria M. Argento, J.), rendered January 19, 2012. The judgment convicted defendant, upon his plea of guilty, of murder in the second degree (two counts).

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

Memorandum: On appeal from a judgment convicting him upon his plea of guilty of two counts of murder in the second degree (Penal Law § 125.25 [1], [3]), defendant contends that he did not validly waive his right to appeal the severity of his sentence. We reject that contention. The oral and written waiver of the right to appeal obtained during the plea proceeding establishes that defendant knowingly, intelligently, and voluntarily waived his right to appeal (*see People v Butler*, 151 AD3d 1959, 1959-1960 [4th Dept 2017], *lv denied* 30 NY3d 948 [2017]; *see generally People v Lopez*, 6 NY3d 248, 256 [2006]). Defendant's valid waiver of the right to appeal, which included a waiver of the right to challenge both the conviction and the sentence, encompasses his contention that the sentence imposed is unduly harsh and severe (*see People v Walker*, 151 AD3d 1730, 1731 [4th Dept 2017], *lv denied* 29 NY3d 1135 [2017], *reconsideration denied* 30 NY3d 984 [2017]; *People v Eaton*, 151 AD3d 1950, 1951 [4th Dept 2017]; *Butler*, 151 AD3d at 1959-1960; *see generally Lopez*, 6 NY3d at 255-256).

Entered: December 22, 2017

Mark W. Bennett
Clerk of the Court