

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

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KA 13-00251

PRESENT: CENTRA, J.P., FAHEY, CARNI, LINDLEY, AND VALENTINO, JJ.

THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

MARGARET D. MARRERO, DEFENDANT-APPELLANT.

LEANNE LAPP, PUBLIC DEFENDER, CANANDAIGUA (ROBERT TUCKER OF COUNSEL),
FOR DEFENDANT-APPELLANT.

R. MICHAEL TANTILLO, DISTRICT ATTORNEY, CANANDAIGUA (JASON A. MACBRIDE
OF COUNSEL), FOR RESPONDENT.

Appeal from a judgment of the Ontario County Court (William F. Kocher, J.), rendered January 2, 2013. The judgment convicted defendant, upon her plea of guilty, of criminal possession of stolen property in the fourth degree, grand larceny in the fourth degree, and possession of burglar's tools.

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

Memorandum: Defendant appeals from a judgment convicting her upon a plea of guilty of, inter alia, grand larceny in the fourth degree (Penal Law §§ 20.00, 155.30 [1]). Defendant's challenge to the factual sufficiency of the plea with respect to that count is unpreserved for our review inasmuch as she did not move to withdraw her plea or to vacate the judgment of conviction on that ground (see CPL 470.05 [2]; *People v Williams*, 91 AD3d 1299, 1299; see generally *People v Lopez*, 71 NY2d 662, 665). This case does not fall within the narrow exception to the preservation requirement because the plea colloquy did not "clearly cast[] significant doubt upon the defendant's guilt or otherwise call[] into question the voluntariness of the plea" (*Lopez*, 71 NY2d at 666). We decline to exercise our power to review defendant's challenge as a matter of discretion in the interest of justice (see CPL 470.15 [3] [c]).

Entered: July 3, 2014

Frances E. Cafarell
Clerk of the Court