

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

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**KA 13-01872**

PRESENT: SCUDDER, P.J., CENTRA, PERADOTTO, SCONIERS, AND VALENTINO, JJ.

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THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

STEVEN T. SHORT, DEFENDANT-APPELLANT.

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CHARLES A. MARANGOLA, MORAVIA, FOR DEFENDANT-APPELLANT.

JON E. BUDELMANN, DISTRICT ATTORNEY, AUBURN (CHRISTOPHER T. VALDINA OF COUNSEL), FOR RESPONDENT.

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Appeal from a judgment of the Cayuga County Court (Mark H. Fandrich, A.J.), rendered August 20, 2013. The judgment convicted defendant, upon his plea of guilty, of assault in the third 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 assault in the third degree (Penal Law § 120.00). Defendant's valid waiver of the right to appeal encompasses his contention that County Court erred in directing him to pay restitution to the assault victim inasmuch as that directive was part of the plea bargain (*see People v Kosty*, 122 AD3d 1408, 1409, *lv denied* 24 NY3d 1220). In any event, defendant failed to preserve for our review his contention that the court erred in failing to conduct a hearing with respect to the appropriate payee of the restitution because he did not request a hearing on that issue (*see id.*; *People v Robinson*, 112 AD3d 1349, 1350, *lv denied* 23 NY3d 1042). 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: May 1, 2015

Frances E. Cafarell  
Clerk of the Court