

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

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KA 14-01249

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

THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

PATIQUE DONERLSON, DEFENDANT-APPELLANT.

TIMOTHY P. DONAHER, PUBLIC DEFENDER, ROCHESTER (KIMBERLY F. DUGUAY 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 May 22, 2014. The judgment convicted defendant, upon her plea of guilty, of criminal possession of a forged instrument in the second degree (two counts).

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

Memorandum: Defendant appeals from a judgment convicting her upon her plea of guilty of two counts of criminal possession of a forged instrument in the second degree (Penal Law § 170.25 [1])). Contrary to the contention of defendant, the record establishes that she knowingly, voluntarily and intelligently waived the right to appeal (*see generally People v Lopez*, 6 NY3d 248, 256), and that valid waiver constitutes a general unrestricted waiver that forecloses any challenge by her to the severity of the sentence (*see id.* at 255-266; *People v Hidalgo*, 91 NY2d 733, 737; *cf. People v Maracle*, 19 NY3d 925, 928). To the extent that defendant contends that the "written waiver of [the right to] appeal is unenforceable because it contained certain nonwaivable rights[, a]ny nonwaivable [rights] purportedly encompassed by the waiver are excluded from the scope of the waiver [and] the remainder of the waiver is valid and enforceable" (*People v Williams*, 132 AD3d 1291, 1291, *lv denied* 26 NY3d 1151 [internal quotation marks omitted]; *see People v Gibson*, 147 AD3d 1507, 1508; *People v Mead*, 133 AD3d 1257, 1258).

Entered: April 28, 2017

Frances E. Cafarell
Clerk of the Court