

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

705

**KA 15-01677**

PRESENT: SMITH, J.P., LINDLEY, DEJOSEPH, NEMOYER, AND CURRAN, JJ.

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THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

DEVIN ISIDORE, DEFENDANT-APPELLANT.

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TULLY RINCKEY, PLLC, ROCHESTER (PETER J. PULLANO OF COUNSEL), FOR DEFENDANT-APPELLANT.

SANDRA DOORLEY, DISTRICT ATTORNEY, ROCHESTER (STEPHEN X. O'BRIEN OF COUNSEL), FOR RESPONDENT.

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Appeal from a judgment of the Supreme Court, Monroe County (Alex R. Renzi, J.), rendered July 29, 2015. The judgment convicted defendant, upon his plea of guilty, of attempted 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 attempted criminal possession of a weapon in the second degree (Penal Law §§ 110.00, 265.03 [3]). Defendant contends that Supreme Court erred in imposing an enhanced sentence because the evidence adduced by the People at the hearing conducted pursuant to *People v Outley* (80 NY2d 702) did not suffice to demonstrate defendant's violation of the plea conditions. We reject that contention. The court made a sufficient inquiry in order to ascertain "the existence of a legitimate basis" for the charges of postplea criminal conduct on the part of defendant (*Outley*, 80 NY2d at 713; see *People v Fumia*, 104 AD3d 1281, 1281, *lv denied* 21 NY3d 1004; *People v Ayen*, 55 AD3d 1305, 1306). We have considered defendant's challenge to the severity of the enhanced sentence and conclude that it is without merit.

Entered: June 9, 2017

Frances E. Cafarell  
Clerk of the Court