

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

751

KA 15-01728

PRESENT: CENTRA, J.P., PERADOTTO, CARNI, NEMOYER, AND CURRAN, JJ.

THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

TIMOTHY J. NICCLOY, DEFENDANT-APPELLANT.

THE LEGAL AID BUREAU OF BUFFALO, INC., BUFFALO (TIMOTHY P. MURPHY OF COUNSEL), FOR DEFENDANT-APPELLANT.

LAWRENCE FRIEDMAN, DISTRICT ATTORNEY, BATAVIA (SHIRLEY A. GORMAN OF COUNSEL), FOR RESPONDENT.

Appeal from a judgment of the Genesee County Court (Robert C. Noonan, J.), rendered September 10, 2015. The judgment convicted defendant, upon his plea of guilty, of attempted menacing a police officer or peace officer, resisting arrest and criminal possession of a weapon in the fourth 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 menacing a police officer or peace officer (Penal Law §§ 110.00, 120.18), resisting arrest (§ 205.30), and criminal possession of a weapon in the fourth degree (§ 265.01 [2]). Contrary to defendant's contention, we conclude that the record demonstrates that defendant's waiver of the right to appeal was made knowingly, intelligently and voluntarily (*see generally People v Lopez*, 6 NY3d 248, 256), and that "defendant ha[d] 'a full appreciation of the consequences' of such waiver" (*People v Bradshaw*, 18 NY3d 257, 264). We further conclude that the waiver encompasses defendant's challenge to the severity of his sentence (*see Lopez*, 6 NY3d at 255-256; *People v Hidalgo*, 91 NY2d 733, 737; *cf. People v Maracle*, 19 NY3d 925, 928).

Entered: June 9, 2017

Frances E. Cafarell
Clerk of the Court