

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

407

KA 15-01324

PRESENT: WHALEN, P.J., SMITH, PERADOTTO, CARNI, AND

THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM

WALTER BROWN, DEFENDANT-APPELLANT.

FRANK H. HISCOCK LEGAL AID SOCIETY, SYRACUSE (PIOTR
COUNSEL), FOR DEFENDANT-APPELLANT.

WILLIAM J. FITZPATRICK, DISTRICT ATTORNEY, SYRACUSE
OF COUNSEL), FOR RESPONDENT.

Appeal from a judgment of the Onondaga County Court (Miller, J.), rendered August 1, 2014. The judgment convicted defendant, upon his plea of guilty, of criminal possession of a weapon in the second degree.

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

Memorandum: On appeal from a judgment convicting defendant upon his plea of guilty of criminal possession of a weapon in the second degree (Penal Law § 265.03 [3]), defendant contends that his right to appeal is not valid, and he challenges the sentence. Although we agree with defendant that the right to appeal is invalid because the perfunctory inquiry of the County Court was "insufficient to establish that the defendant in an adequate colloquy to ensure that the right to appeal was a knowing and voluntary choice" (296 AD2d 860, 860 [4th Dept 2002], *lv denied* 98 NY2d 1000, 1000 [4th Dept 2008]), we nevertheless conclude that the sentence is not unduly