

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

**554**

**KA 16-00128**

PRESENT: WHALEN, P.J., CENTRA, LINDLEY, AND NEMOYER, JJ.

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THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

TORRIE JONES, DEFENDANT-APPELLANT.

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THE LEGAL AID BUREAU OF BUFFALO, INC., BUFFALO (MICHAEL S. DEAL OF COUNSEL), FOR DEFENDANT-APPELLANT.

JOHN J. FLYNN, DISTRICT ATTORNEY, BUFFALO (DANIEL J. PUNCH OF COUNSEL), FOR RESPONDENT.

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Appeal from a judgment of the Erie County Court (Thomas P. Franczyk, J.), rendered January 7, 2016. The judgment convicted defendant, upon his plea of guilty, of robbery in the third degree.

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

Memorandum: On appeal from a judgment convicting him upon his plea of guilty of robbery in the third degree (Penal Law § 160.05), defendant contends that his waiver of the right to appeal is invalid. We reject that contention inasmuch as "[t]he plea colloquy and the written waiver of the right to appeal signed [and acknowledged in court] by defendant demonstrate that [he] knowingly, intelligently and voluntarily waived the right to appeal" (*People v Farrara*, 145 AD3d 1527, 1527 [4th Dept 2016], *lv denied* 29 NY3d 997 [2017] [internal quotation marks omitted]; see *People v Lopez*, 6 NY3d 248, 256 [2006]). Contrary to defendant's contention, County Court "was not required to explain that the waiver of the right to appeal would specifically encompass the court's discretionary determination on youthful offender status" (*People v Saraceni*, 153 AD3d 1559, 1560 [4th Dept 2017], *lv denied* 30 NY3d 913 [2018]; see generally *People v Kemp*, 94 NY2d 831, 833 [1999]). Thus, defendant's "valid waiver of the right to appeal . . . forecloses appellate review of [the] sentencing court's discretionary decision to deny youthful offender status" (*People v Pacherille*, 25 NY3d 1021, 1024 [2015]).

Entered: April 27, 2018

Mark W. Bennett  
Clerk of the Court