

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

708

KA 16-01193

PRESENT: CARNI, J.P., LINDLEY, NEMOYER, CURRAN, AND WINSLOW, JJ.

THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

ANTWAN LINDSAY, DEFENDANT-APPELLANT.

THE LEGAL AID BUREAU OF BUFFALO, INC., BUFFALO (BARBARA J. DAVIES OF COUNSEL), FOR DEFENDANT-APPELLANT.

JOHN J. FLYNN, DISTRICT ATTORNEY, BUFFALO (MATTHEW B. POWERS OF COUNSEL), FOR RESPONDENT.

Appeal from a judgment of the Erie County Court (Thomas P. Franczyk, J.), rendered July 1, 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: Defendant appeals from a judgment convicting him, upon his plea of guilty, of robbery in the third degree (Penal Law § 160.05). Contrary to defendant's contention, the record establishes that he validly waived his right to appeal (*see People v Mellerson*, 156 AD3d 1488, 1488-1489 [4th Dept 2017], *lv denied* 30 NY3d 1117 [2018]; *People v Hollis*, 147 AD3d 1505, 1505 [4th Dept 2017], *lv denied* 29 NY3d 1033 [2017]). Defendant's reliance on *People v Brown* (296 AD2d 860 [4th Dept 2002], *lv denied* 98 NY2d 767 [2002]) is misplaced inasmuch as County Court "provided defendant with an extensive and detailed description of the proposed waiver of the right to appeal before securing his consent thereto" (*People v Thomas*, 158 AD3d 1191, 1191 [4th Dept 2018]). Defendant's valid waiver of his right to appeal forecloses his challenge to the court's suppression ruling (*see People v Kemp*, 94 NY2d 831, 833 [1999]).

Entered: June 15, 2018

Mark W. Bennett
Clerk of the Court