

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

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KA 16-01448

PRESENT: CENTRA, J.P., CARNI, LINDLEY, NEMOYER, AND TROUTMAN, JJ.

THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

DEVROY SEWELL, DEFENDANT-APPELLANT.

THE LEGAL AID BUREAU OF BUFFALO, INC., BUFFALO (KRISTIN M. PREVE OF COUNSEL), FOR DEFENDANT-APPELLANT.

JOHN J. FLYNN, DISTRICT ATTORNEY, BUFFALO (DONNA A. MILLING OF COUNSEL), FOR RESPONDENT.

Appeal from a judgment of the Supreme Court, Erie County (John L. Michalski, A.J.), rendered February 10, 2016. The judgment convicted defendant, upon his plea of guilty, of attempted robbery in the first degree.

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

Memorandum: Defendant appeals from a judgment convicting him upon a plea of guilty of attempted robbery in the first degree (Penal Law §§ 110.00, 160.15 [1]). Contrary to defendant's contention, the record establishes that he knowingly, intelligently, and voluntarily waived his right to appeal (*see People v Lopez*, 6 NY3d 248, 256 [2006]; *People v Wisniewski*, 128 AD3d 1481, 1481 [4th Dept 2015], *lv denied* 26 NY3d 937 [2015]), and that valid waiver encompasses his contention that the sentence imposed by Supreme Court is unduly harsh and severe (*see Lopez*, 6 NY3d at 255-256; *People v Lococo*, 92 NY2d 825, 827 [1998]).

We note that the certificate of conviction misspells defendant's name and contains an incorrect indictment number and must therefore be amended to include the proper spelling of defendant's name and the correct indictment number (*see People v Young*, 74 AD3d 1864, 1865 [4th Dept 2010], *lv denied* 15 NY3d 811 [2010]).

Entered: April 26, 2019

Mark W. Bennett
Clerk of the Court