

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

1566

KA 09-02175

PRESENT: MARTOCHE, J.P., CENTRA, FAHEY, LINDLEY, AND SCONIERS, JJ.

THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

CHRISTOPHER WRIGHT, DEFENDANT-APPELLANT.

TYSON BLUE, MACEDON, FOR DEFENDANT-APPELLANT.

RICHARD M. HEALY, DISTRICT ATTORNEY, LYONS (JACQUELINE MCCORMICK OF COUNSEL), FOR RESPONDENT.

Appeal from a judgment of the Wayne County Court (John B. Nesbitt, J.), rendered August 27, 2009. The judgment convicted defendant, upon his plea of guilty, of grand larceny 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 grand larceny in the third degree (Penal Law former § 155.35), defendant contends that County Court erred in failing to conduct a restitution hearing. Defendant failed to preserve that contention for our review "inasmuch as he failed to object to the amount of restitution at sentencing or to request a hearing with respect thereto" (*People v Jorge N.T.*, 70 AD3d 1456, 1457, *lv denied* 14 NY3d 889; *see People v Marvin*, 68 AD3d 1729, *lv denied* 14 NY3d 842). Furthermore, defendant waived that contention because he expressly consented to the amount of restitution imposed (*see People v Brown*, 70 AD3d 1378; *People v Vogel*, 20 AD3d 865, *appeal dismissed* 6 NY3d 728). The sentence is not unduly harsh or severe.

Entered: December 30, 2010

Patricia L. Morgan
Clerk of the Court