

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

956

KA 08-01139

PRESENT: SMITH, J.P., FAHEY, CARNI, PINE, AND GORSKI, JJ.

THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

JEROME T. CARSON, DEFENDANT-APPELLANT.
(APPEAL NO. 1.)

THE LEGAL AID BUREAU OF BUFFALO, INC., BUFFALO (ROBERT L. KEMP OF COUNSEL), FOR DEFENDANT-APPELLANT.

FRANK A. SEDITA, III, DISTRICT ATTORNEY, BUFFALO (RAYMOND C. HERMAN OF COUNSEL), FOR RESPONDENT.

Appeal from a judgment of the Erie County Court (Shirley Troutman, J.), rendered April 21, 2008. The judgment convicted defendant, upon his plea of guilty, of attempted criminal possession of a controlled substance in the fourth degree.

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

Memorandum: In appeal No. 1, defendant appeals from a judgment convicting him upon his plea of guilty of attempted criminal possession of a controlled substance in the fourth degree (Penal Law §§ 110.00, 220.09 [3]) and, in appeal No. 2, he appeals from a judgment convicting him upon his plea of guilty of attempted criminal possession of a controlled substance in the fifth degree (§§ 110.00, 220.06 [1]). Contrary to the contention of defendant, his waiver of the right to appeal in appeal No. 1 was knowingly, intelligently and voluntarily entered (*see People v Lopez*, 6 NY3d 248, 256; *cf. People v Ramos*, 152 AD2d 209). Contrary to defendant's implicit contention, County Court was not required to "engage in any particular litany in order to satisfy itself" that the waiver was validly entered (*People v Callahan*, 80 NY2d 273, 283). The valid waiver by defendant of the right to appeal in appeal No. 1 encompasses his challenge to the court's suppression ruling in that appeal (*see People v Kemp*, 94 NY2d 831, 833; *People v Dean*, 48 AD3d 1244, *lv denied* 10 NY3d 839), and there is no merit to defendant's remaining contention with respect to appeal No. 2 (*see generally People v Fuggazzatto*, 62 NY2d 862).

Entered: July 2, 2009

Patricia L. Morgan
Clerk of the Court