

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

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KA 10-01778

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

THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

CHAZ D. FRAZIER, DEFENDANT-APPELLANT.

LINDA M. CAMPBELL, SYRACUSE, FOR DEFENDANT-APPELLANT.

DAVID W. FOLEY, DISTRICT ATTORNEY, MAYVILLE (LAURIE M. BECKERNICK OF COUNSEL), FOR RESPONDENT.

Appeal from a judgment of the Chautauqua County Court (John T. Ward, J.), rendered July 26, 2010. The judgment convicted defendant, upon his plea of guilty, of manslaughter in the first 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 manslaughter in the first degree (Penal Law § 125.20 [1]), defendant contends that County Court erred in sentencing him without the benefit of an adequate presentence report. Defendant failed to preserve that contention for our review (see *People v Pomales*, 37 AD3d 1098, lv denied 8 NY3d 949; *People v Diaz*, 26 AD3d 768). In any event, it is without merit (see *People v Harrington*, 3 AD3d 737, 739; see also *People v Rudduck*, 85 AD3d 1557, lv denied 17 NY3d 861). The sentence is not unduly harsh or severe.

Entered: January 31, 2012

Frances E. Cafarell
Clerk of the Court