

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

829

**KA 11-02030**

PRESENT: SMITH, J.P., FAHEY, PERADOTTO, LINDLEY, AND MARTOCHE, JJ.

---

THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

ROBERT J. KING, DEFENDANT-APPELLANT.

---

DAVID P. ELKOVITCH, AUBURN, FOR DEFENDANT-APPELLANT.

JON E. BUDELMANN, DISTRICT ATTORNEY, AUBURN (CHRISTOPHER T. VALDINA OF COUNSEL), FOR RESPONDENT.

---

Appeal from a judgment of the Cayuga County Court (Mark H. Fandrich, A.J.), rendered August 16, 2011. The judgment convicted defendant, upon his plea of guilty, of criminal solicitation 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 criminal solicitation in the third degree (Penal Law § 100.08), defendant contends that County Court abused its discretion in denying his request for youthful offender status. That contention is encompassed by defendant's valid waiver of the right to appeal, however, and therefore is not properly before us (*see People v Rush*, 94 AD3d 1449, 1449-1450; *People v Lyons*, 86 AD3d 930, 931, *lv denied* 17 NY3d 954; *cf. People v Anderson*, 90 AD3d 1475, 1476, *lv denied* 18 NY3d 991).

Entered: June 29, 2012

Frances E. Cafarell  
Clerk of the Court