

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

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KA 12-02247

PRESENT: CENTRA, J.P., FAHEY, CARNI, AND SCONIERS, JJ.

THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

CHRISTOPHER B. FREEDOM, DEFENDANT-APPELLANT.

CHARLES J. GREENBERG, AMHERST, FOR DEFENDANT-APPELLANT.

LAWRENCE FRIEDMAN, DISTRICT ATTORNEY, BATAVIA (WILLIAM G. ZICKL OF COUNSEL), FOR RESPONDENT.

Appeal from a judgment of the Genesee County Court (Robert C. Noonan, J.), rendered February 27, 2012. The judgment convicted defendant, upon his plea of guilty, of attempted burglary 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 his plea of guilty, of attempted burglary in the first degree (Penal Law §§ 110.00, 140.30 [2]). We conclude that County Court did not abuse its discretion in denying defendant's request for youthful offender status in light of defendant's admitted participation in the attempted burglary, during which defendant stabbed the victim in the left eye with a pair of scissors, defendant's prior assaultive behavior, and concerns with respect to defendant's ability to manage his anger (*see People v Session*, 38 AD3d 1300, 1301, *lv denied* 8 NY3d 990; *People v Fisher*, 35 AD3d 1276, 1277, *lv denied* 13 NY3d 907). We decline to exercise our interest of justice jurisdiction to adjudicate defendant a youthful offender (*see generally People v Shrubsall*, 167 AD2d 929, 930). Contrary to defendant's further contention, the bargained-for sentence is not unduly harsh or severe.

Entered: June 7, 2013

Frances E. Cafarell
Clerk of the Court