

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

782

KA 12-00586

PRESENT: SCUDDER, P.J., PERADOTTO, LINDLEY, WHALEN, AND MARTOCHE, JJ.

THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

CHARLES L. JONES, DEFENDANT-APPELLANT.

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

FRANK A. SEDITA, III, DISTRICT ATTORNEY, BUFFALO (DONNA A. MILLING OF COUNSEL), FOR RESPONDENT.

Appeal from a judgment of the Erie County Court (Thomas P. Franczyk, J.), rendered September 12, 2011. The judgment convicted defendant, upon his plea of guilty, of robbery in the second 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 robbery in the second degree (Penal Law § 160.10 [2] [b]), defendant contends that he did not knowingly, voluntarily and intelligently waive his right to appeal. We reject that contention. Defendant waived his right to appeal both orally and in writing, and we conclude that "[d]efendant's responses to County Court's questions unequivocally established that defendant understood the proceedings and was voluntarily waiving the right to appeal" (*People v Buryta*, 85 AD3d 1621, 1622; see *People v Lyons*, 86 AD3d 930, 930, *lv denied* 17 NY3d 954). Defendant's valid waiver of the right to appeal encompasses his contention that the court abused its discretion in denying his request for youthful offender status (see *People v Jones*, 96 AD3d 1637, 1637, *lv denied* 19 NY3d 1103; *People v Rush*, 94 AD3d 1449, 1449-1450, *lv denied* 19 NY3d 967), as well as his contention concerning the severity of the sentence (see *People v Lopez*, 6 NY3d 248, 255; *Jones*, 96 AD3d at 1637).

Entered: July 19, 2013

Frances E. Cafarell
Clerk of the Court