

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

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KA 12-01732

PRESENT: SMITH, J.P., PERADOTTO, CARNI, SCONIERS, AND VALENTINO, JJ.

THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

MICHAEL A. DOBLINGER, DEFENDANT-APPELLANT.
(APPEAL NO. 1.)

THE LEGAL AID BUREAU OF BUFFALO, INC., BUFFALO (BARBARA J. DAVIES OF COUNSEL), FOR DEFENDANT-APPELLANT.

FRANK A. SEDITA, III, DISTRICT ATTORNEY, BUFFALO (DAVID A. HERATY OF COUNSEL), FOR RESPONDENT.

Appeal from a judgment of the Supreme Court, Erie County (M. William Boller, A.J.), rendered August 16, 2012. The judgment convicted defendant, upon his plea of guilty, of criminal possession of stolen property in the fourth degree.

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

Memorandum: In each of these three appeals, defendant appeals from a judgment convicting him upon his plea of guilty of criminal possession of stolen property in the fourth degree (Penal Law § 165.45 [1], [5]). Although we agree with defendant that his waiver of the right to appeal does not encompass his challenge to the severity of the sentences imposed inasmuch as there is no indication in the record of the plea allocution that defendant was waiving his right to appeal the severity of the sentences (*see People v Maracle*, 19 NY3d 925, 928; *People v Pimentel*, 108 AD3d 861, 862, *lv denied* 21 NY3d 1076), we nevertheless conclude that the sentences are not unduly harsh or severe.

Entered: May 2, 2014

Frances E. Cafarell
Clerk of the Court