

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

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**KA 07-02359**

PRESENT: CENTRA, J.P., PERADOTTO, CARNI, LINDLEY, AND WHALEN, JJ.

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THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

LAPADRE A. HAMPTON, JR., DEFENDANT-APPELLANT.

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BROWN & HUTCHINSON, ROCHESTER (KAREN BAILEY TURNER OF COUNSEL), FOR DEFENDANT-APPELLANT.

SANDRA DOORLEY, DISTRICT ATTORNEY, ROCHESTER (ERIN TUBBS OF COUNSEL), FOR RESPONDENT.

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Appeal from a judgment of the Monroe County Court (Richard A. Keenan, J.), rendered March 29, 2007. The judgment convicted defendant, upon a jury verdict, of rape in the first degree.

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

Memorandum: Defendant appeals from a judgment that convicted him upon a jury verdict of rape in the first degree (Penal Law § 130.35 [1]). Contrary to defendant's contention, County Court properly admitted a knife in evidence "as a model of the knife" used by defendant during the commission of the crime (*People v Del Vermo*, 192 NY 470, 482; see *People v Felder*, 182 AD2d 495, 496, lv denied 80 NY2d 830). We reject defendant's further contention that he was denied effective assistance of counsel. Viewing defense counsel's representation in totality and as of the time of the representation, and in light of defendant's claim that he had consensual sex with the victim (see *People v Ross*, 43 AD3d 567, 570, lv denied 9 NY3d 964), we conclude that defendant received meaningful representation (see *People v Marra*, 96 AD3d 1623, 1626-1627, affd 21 NY3d 979; see generally *People v Baldi*, 54 NY2d 137, 147). We further conclude that the sentence is not unduly harsh or severe.

Entered: May 9, 2014

Frances E. Cafarell  
Clerk of the Court