

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

611

**KA 08-00653**

PRESENT: CENTRA, J.P., FAHEY, PERADOTTO, LINDLEY, AND SCONIERS, JJ.

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THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

CHASE SINCLAIR, DEFENDANT-APPELLANT.

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TIMOTHY P. DONAHER, PUBLIC DEFENDER, ROCHESTER (KIMBERLY F. DUGUAY OF COUNSEL), FOR DEFENDANT-APPELLANT.

MICHAEL C. GREEN, DISTRICT ATTORNEY, ROCHESTER (LESLIE E. SWIFT OF COUNSEL), FOR RESPONDENT.

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Appeal from a judgment of the Monroe County Court (Thomas R. Morse, A.J.), rendered February 20, 2008. The judgment convicted defendant, upon his plea of guilty, of grand larceny in the fourth 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 grand larceny in the fourth degree (Penal Law § 155.30 [5]). Contrary to defendant's contention, County Court "properly set forth on the record its determination that defendant should not be afforded youthful offender status . . .[, ] as well as its reasons for that determination" (*People v Smith*, 21 AD3d 1342, 1342). The court explicitly stated at sentencing that it was denying defendant youthful offender treatment as a result of his violation of the condition of the plea agreement that he would not be arrested before sentencing, and we conclude that the court properly exercised its discretion in making that determination (*see People v Hall*, 38 AD3d 1289; *see also People v Eberling*, 256 AD2d 1217, *lv denied* 93 NY2d 852; *People v Bailey*, 215 AD2d 769, *lv denied* 86 NY2d 840). We decline to exercise our interest of justice jurisdiction to adjudicate defendant a youthful offender (*see People v Randleman*, 60 AD3d 1358, *lv denied* 12 NY3d 919; *People v Martinez*, 55 AD3d 1334, *lv denied* 11 NY3d 927). The enhanced sentence is not unduly harsh or severe.

Entered: April 29, 2011

Patricia L. Morgan  
Clerk of the Court