

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

**362**

**KA 13-02075**

PRESENT: CENTRA, J.P., PERADOTTO, LINDLEY, AND DEJOSEPH, JJ.

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THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

TAVON JACKSON, DEFENDANT-APPELLANT.

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STEVEN J. GETMAN, OVID, FOR DEFENDANT-APPELLANT.

BARRY L. PORSCHE, DISTRICT ATTORNEY, WATERLOO, FOR RESPONDENT.

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Appeal from a judgment of the Seneca County Court (Dennis F. Bender, J.), rendered August 13, 2013. The judgment convicted defendant, upon his plea of guilty, of attempted promoting prison contraband 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 promoting prison contraband in the first degree (Penal Law §§ 110.00, 205.25). Defendant's contention that the plea was not knowing and voluntary and that County Court therefore erred in denying his motion to withdraw the plea survives his valid waiver of the right to appeal (*see People v Lawrence*, 118 AD3d 1501, 1501). We conclude, however, that the court did not abuse its discretion in denying defendant's motion inasmuch as defendant's "allegations in support of the motion [were] belied by [his] statements during the plea proceeding" (*People v Williams*, 103 AD3d 1128, 1128, *lv denied* 21 NY3d 915; *see People v Farley*, 34 AD3d 1229, 1230, *lv denied* 8 NY3d 880). The record establishes that defendant pleaded guilty voluntarily, that he was satisfied with the representation provided by defense counsel, and that he understood the proceedings.

Entered: March 27, 2015

Frances E. Cafarell  
Clerk of the Court