

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

1043

KA 15-00156

PRESENT: CARNI, J.P., DEJOSEPH, NEMOYER, TROUTMAN, AND SCUDDER, JJ.

THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

JON ANDERSON, DEFENDANT-APPELLANT.

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

MICHAEL J. FLAHERTY, JR., ACTING DISTRICT ATTORNEY, BUFFALO (DAVID A. HERATY OF COUNSEL), FOR RESPONDENT.

Appeal from a judgment of the Erie County Court (Michael F. Pietruszka, J.), rendered November 17, 2014. The judgment convicted defendant, upon his plea of guilty, of criminal possession of a controlled substance in the fifth 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 criminal possession of a controlled substance in the fifth degree (Penal Law § 220.06 [5]), defendant contends that his waiver of the right to appeal was invalid. We reject that contention inasmuch as the record demonstrates that the waiver was knowingly, intelligently, and voluntarily entered (*see People v Carson*, 64 AD3d 1194, 1194, *lv denied* 13 NY3d 835; *see generally People v Sanders*, 25 NY3d 337, 341-342). Defendant's valid waiver of the right to appeal encompasses both his contention that County Court erred in denying his suppression motion (*see Sanders*, 25 NY3d at 342), and his challenge to the severity of his sentence (*see People v Hidalgo*, 91 NY2d 733, 737).

Entered: November 10, 2016

Frances E. Cafarell
Clerk of the Court