

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

706

KA 13-01187

PRESENT: SMITH, J.P., LINDLEY, DEJOSEPH, NEMOYER, AND CURRAN, JJ.

THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT

V

MEMORANDUM AND ORDER

ERIC A. MAGIN, DEFENDANT-APPELLANT.

JEFFREY WICKS, PLLC, ROCHESTER (JEFFREY WICKS OF COUNSEL), FOR DEFENDANT-APPELLANT.

SANDRA DOORLEY, DISTRICT ATTORNEY, ROCHESTER (NANCY GILLIGAN OF COUNSEL), FOR RESPONDENT.

Appeal from a judgment of the Monroe County Court (Vincent M. Dinolfo, J.), rendered April 11, 2013. The judgment convicted defendant, upon a jury verdict, of criminal possession of a forged instrument in the second degree (12 counts).

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

Memorandum: Defendant appeals from a judgment convicting him upon a jury verdict of 12 counts of criminal possession of a forged instrument in the second degree (Penal Law § 170.25). County Court sentenced him as a persistent felony offender to concurrent indeterminate terms of imprisonment of 15 years to life.

We reject defendant's contention that the court abused its discretion in sentencing him as a persistent felony offender. We conclude "that defendant's history and character . . . and the nature and circumstances of his criminal conduct indicate that extended incarceration and life-time supervision will best serve the public interest" (Penal Law § 70.10 [2]; see *People v Bastian*, 83 AD3d 1468, 1470, *lv denied* 17 NY3d 813; *People v Perry*, 19 AD3d 619, 619, *lv denied* 5 NY3d 809, *reconsideration denied* 5 NY3d 855). We therefore further conclude that the sentence is not unduly harsh or severe.

Entered: July 7, 2017

Frances E. Cafarell
Clerk of the Court