

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

1199

KA 14-01213

PRESENT: WHALEN, P.J., SMITH, PERADOTTO, AND NEMOYER, JJ.

THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

CURTIS N. HENDERSON, DEFENDANT-APPELLANT.

FRANK H. HISCOCK LEGAL AID SOCIETY, SYRACUSE (PIOTR BANASIAK OF COUNSEL), FOR DEFENDANT-APPELLANT.

WILLIAM J. FITZPATRICK, DISTRICT ATTORNEY, SYRACUSE (JAMES P. MAXWELL OF COUNSEL), FOR RESPONDENT.

Appeal from a judgment of the Supreme Court, Onondaga County (John J. Brunetti, A.J.), rendered September 20, 2010. The appeal was held by this Court by order entered December 23, 2016, decision was reserved and the matter was remitted to Supreme Court, Onondaga County, for further proceedings (145 AD3d 1554). The proceedings were held and completed.

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 manslaughter in the first degree (Penal Law § 125.20 [1]). We previously held the case, reserved decision, and remitted the matter for Supreme Court to make and state for the record a determination whether defendant should be afforded youthful offender status (*People v Henderson*, 145 AD3d 1554, 1555 [4th Dept 2016]; see generally *People v Rudolph*, 21 NY3d 497, 499-501 [2013]). Upon remittal, the court determined that affording defendant youthful offender status would not serve the interest of justice (see CPL 720.20 [1] [a]). We conclude that the court did not thereby abuse its discretion, particularly in view of the gravity of the crime, in which defendant fired several gunshots at the victim's vehicle and killed the victim (see *People v Mohawk*, 142 AD3d 1370, 1371 [4th Dept 2016]; *People v Gibson*, 134 AD3d 1517, 1518-1519 [4th Dept 2015], lv denied 27 NY3d 1069 [2016]; see also *People v Wills*, 144 AD3d 952, 952-953 [2d Dept 2016]). In addition, upon our review of the record, we decline to exercise our discretion in the interest of justice to adjudicate defendant a youthful offender (see *Mohawk*, 142 AD3d at 1371; cf. *People v Thomas R.O.*, 136 AD3d 1400, 1402-1403 [4th Dept 2016]). Finally, we conclude that the sentence is not unduly harsh or

severe.

Entered: November 9, 2017

Mark W. Bennett
Clerk of the Court