

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

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**KA 16-00731**

PRESENT: CENTRA, J.P., CARNI, LINDLEY, NEMOYER, AND TROUTMAN, JJ.

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THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

WILLIE J. PRUITT, DEFENDANT-APPELLANT.

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LEANNE LAPP, PUBLIC DEFENDER, CANANDAIGUA, D.J. & J.A. CIRANDO, PLLC, SYRACUSE (BRADLEY E. KEEM OF COUNSEL), FOR DEFENDANT-APPELLANT.

JAMES B. RITTS, DISTRICT ATTORNEY, CANANDAIGUA (V. CHRISTOPHER EAGGLESTON OF COUNSEL), FOR RESPONDENT.

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Appeal from a judgment of the Ontario County Court (Stephen D. Aronson, A.J.), rendered February 11, 2016. The judgment convicted defendant, upon his plea of guilty, of aggravated unlicensed operation of a motor vehicle in the first degree (two counts) and driving while intoxicated as a misdemeanor (two counts).

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 two counts each of aggravated unlicensed operation of a motor vehicle in the first degree (Vehicle and Traffic Law § 511 [3] [a] [i]) and driving while intoxicated as a misdemeanor (§§ 1192 [2], [3]; 1193 [1] [b] [i]). Defendant was sentenced to, inter alia, a term of local incarceration and a fine of \$1,500. Contrary to defendant's contention, the fine is not unduly harsh or severe. Defendant's further contention that the fine constitutes cruel and unusual punishment is unpreserved for appellate review, and we decline to address it as a matter of discretion in the interest of justice (*see People v Abruzzese*, 30 AD3d 219, 220 [1st Dept 2006], *lv denied* 7 NY3d 784 [2006]; *see generally* CPL 470.15 [3] [c]; *People v Pena*, 28 NY3d 727, 730 [2017]).

Entered: February 1, 2019

Mark W. Bennett  
Clerk of the Court