

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

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KA 16-01271

PRESENT: WHALEN, P.J., SMITH, CARNI, NEMOYER, AND CURRAN, JJ.

THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

TYLER CHURCH, DEFENDANT-APPELLANT.

FRANK H. HISCOCK LEGAL AID SOCIETY, SYRACUSE (KRISTEN N. MCDERMOTT OF COUNSEL), FOR DEFENDANT-APPELLANT.

WILLIAM J. FITZPATRICK, DISTRICT ATTORNEY, SYRACUSE (NICOLE K. INTSCHERT OF COUNSEL), FOR RESPONDENT.

Appeal from a judgment of the Onondaga County Court (Thomas J. Miller, J.), rendered June 22, 2016. The judgment convicted defendant, upon his plea of guilty, of manslaughter in the first degree and criminal possession of a weapon in the fourth 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 manslaughter in the first degree (Penal Law § 125.20 [1]) and criminal possession of a weapon in the fourth degree (§ 265.01 [2]), defendant contends that he did not validly waive his right to appeal and that the sentence is unduly harsh and severe. The record establishes that defendant's waiver of the right to appeal was knowing, intelligent and voluntary (see *People v Bryant*, 28 NY3d 1094, 1096 [2016]; *People v Colon*, 122 AD3d 1309, 1309 [4th Dept 2014], lv denied 25 NY3d 1200 [2015]), and the valid waiver of the right to appeal encompasses his challenge to the severity of the sentence (see *People v Lopez*, 6 NY3d 248, 255-256 [2006]).

Entered: March 15, 2019

Mark W. Bennett
Clerk of the Court