

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

680.3

KA 18-01835

PRESENT: CARNI, J.P., LINDLEY, NEMOYER, CURRAN, AND BANNISTER, JJ.

THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

DENNIS L. THOMPSON, DEFENDANT-APPELLANT.

TIMOTHY P. DONAHER, PUBLIC DEFENDER, ROCHESTER (BENJAMIN L. NELSON OF COUNSEL), FOR DEFENDANT-APPELLANT.

SANDRA DOORLEY, DISTRICT ATTORNEY, ROCHESTER (KAYLAN PORTER OF COUNSEL), FOR RESPONDENT.

Appeal from a judgment of the Supreme Court, Monroe County (Daniel J. Doyle, J.), rendered July 11, 2016. The judgment convicted defendant, upon a plea of guilty, of burglary in the first degree.

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 burglary in the first degree (Penal Law § 140.30 [1]). Inasmuch as defendant did not execute a new waiver of the right to appeal after the terms of his plea bargain were altered, his original waiver does not foreclose his current challenge to the severity of his sentence (*see People v Alsaaidi*, 173 AD3d 1836, 1837-1838 [4th Dept 2019], *lv denied* 35 NY3d 940 [2020]). Nevertheless, the sentence is not unduly harsh or severe.

Entered: October 2, 2020

Mark W. Bennett
Clerk of the Court