

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

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KA 19-00089

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

THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

CHRISTIAN DAVIDSON, DEFENDANT-APPELLANT.
(APPEAL NO. 1.)

THE LEGAL AID BUREAU OF BUFFALO, INC., BUFFALO (ROBERT L. KEMP OF COUNSEL), FOR DEFENDANT-APPELLANT.

JOHN J. FLYNN, DISTRICT ATTORNEY, BUFFALO (MICHAEL J. HILLERY OF COUNSEL), FOR RESPONDENT.

Appeal from a judgment of the Supreme Court, Erie County (M. William Boller, A.J.), rendered November 20, 2018. The judgment convicted defendant, upon his plea of guilty, of criminal possession of stolen property in the fourth degree (two counts).

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

Memorandum: In appeal No. 1, defendant appeals from a judgment convicting him, upon his plea of guilty, of two counts of criminal possession of stolen property in the fourth degree (Penal Law § 165.45 [5]). In appeal No. 2, defendant appeals from a judgment convicting him, upon his plea of guilty, of attempted rape in the first degree (§§ 110.00, 130.35 [1]). As the People correctly concede in each appeal, defendant did not validly waive his right to appeal from either judgment (*see People v Thomas*, 34 NY3d 545, 565-566 [2019], *cert denied* – US –, 140 S Ct 2634 [2020]). The sentences, however, are not unduly harsh or severe.

Entered: February 5, 2021

Mark W. Bennett
Clerk of the Court