

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

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**KA 21-01366**

PRESENT: LINDLEY, J.P., CURRAN, BANNISTER, GREENWOOD, AND DELCONTE, JJ.

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THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

JOHNNY BOYDE, DEFENDANT-APPELLANT.  
(APPEAL NO. 1.)

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FRANK H. HISCOCK LEGAL AID SOCIETY, SYRACUSE (SARA A. GOLDFARB OF COUNSEL), FOR DEFENDANT-APPELLANT.

JOHNNY BOYD, DEFENDANT-APPELLANT PRO SE.

WILLIAM J. FITZPATRICK, DISTRICT ATTORNEY, SYRACUSE (BRADLEY W. OASTLER OF COUNSEL), FOR RESPONDENT.

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Appeal from a judgment of the Onondaga County Court (Stephen J. Dougherty, J.), rendered August 5, 2021. The judgment convicted defendant upon his plea of guilty of failure to register or verify status as a sex offender.

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 failure to register or verify his status as a sex offender by failing to personally appear for an updated photograph (Correction Law § 168-f [2] [b-2]). In appeal No. 2, defendant appeals from a judgment that, upon his admission to violating conditions of probation, revoked the sentence of probation imposed on his prior conviction of failure to register or verify his status as a sex offender by failing to register a change of address (§ 168-f [4]). In appeal No. 3, defendant appeals from a judgment convicting him upon his guilty plea of failure to register or verify his status as a sex offender by failing to verify his address with law enforcement (§ 168-f [3]).

In appeal Nos. 1 and 3, defendant contends in his main and pro se supplemental briefs that his respective guilty pleas were not knowing, voluntary and intelligent and, in appeal No. 2, defendant contends in his main brief that his admission to a violation of probation was not knowing, voluntary and intelligent. In his main brief, defendant concedes in each of the appeals that he failed to preserve for our review his contention that the guilty pleas and admission were not knowing, voluntary or intelligent " 'inasmuch as [he] failed to move to

withdraw [his] [pleas or] admission on that ground' " or to vacate the judgments (*People v Derrell A.E.*, 128 AD3d 1536, 1536 [4th Dept 2015], *lv denied* 26 NY3d 928 [2015]; see generally *People v Lopez*, 71 NY2d 662, 665 [1988]). Moreover, none of these cases fall within the narrow exception to the preservation requirement (see *Lopez*, 71 NY2d at 666), and we decline to exercise our power to review defendant's contentions as a matter of discretion in the interest of justice (see CPL 470.15 [3] [c]).

In view of our determination to affirm the judgment in appeal No. 1, we reject defendant's contention in his main brief that the judgment in appeal No. 3 must be reversed on the ground that he pleaded guilty in appeal No. 3 based on the promised sentence in appeal No. 1 (see generally *People v Collins*, 167 AD3d 1493, 1498-1499 [4th Dept 2018], *lv denied* 32 NY3d 1202 [2019]; *People v Roig*, 117 AD3d 1462, 1463 [4th Dept 2014], *lv denied* 23 NY3d 1042 [2014]).