

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

578

KA 22-00352

PRESENT: WHALEN, P.J., MONTOUR, GREENWOOD, NOWAK, AND HANNAH, JJ.

THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

TERRELL HINKLE, DEFENDANT-APPELLANT.

MICHAEL J. STACHOWSKI, P.C., BUFFALO (MICHAEL J. STACHOWSKI OF COUNSEL), FOR DEFENDANT-APPELLANT.

MICHAEL J. KEANE, DISTRICT ATTORNEY, BUFFALO (PAUL J. WILLIAMS, III, OF COUNSEL), FOR RESPONDENT.

Appeal from a judgment of the Supreme Court, Erie County (Deborah A. Haendiges, J.), rendered February 7, 2022. The judgment convicted defendant, upon his plea of guilty, of attempted assault in the second degree.

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

Memorandum: Defendant appeals from a judgment convicting him, upon his guilty plea, of attempted assault in the second degree (Penal Law §§ 110.00, 120.05 [1]). We affirm. Defendant contends that his guilty plea was involuntary because, during the plea colloquy, Supreme Court referred to his right to a trial, not his right to a jury trial, and to his right to remain silent, not his right against self-incrimination (*see generally Boykin v Alabama*, 395 US 238, 243 [1969]). Defendant failed to preserve that contention for our review, inasmuch as he did not move to withdraw the plea or to vacate the judgment of conviction (*see People v Barnes*, 206 AD3d 1713, 1714-1715 [4th Dept 2022], *lv denied* 38 NY3d 1132 [2022]). In any event, defendant's contention is without merit, inasmuch as the record affirmatively demonstrates that defendant knowingly, intelligently, and voluntarily waived his *Boykin* rights (*see People v Conceicao*, 26 NY3d 375, 382-383, 383-384 [2015]; *Barnes*, 206 AD3d at 1714-1715).

Entered: July 25, 2025

Ann Dillon Flynn
Clerk of the Court