

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

**384**

**KA 24-01371**

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

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THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

MICHAEL P. SEMAR, DEFENDANT-APPELLANT.

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LEAH R. NOWOTARSKI, PUBLIC DEFENDER, WARSAW (FARES A. RUMI OF COUNSEL), FOR DEFENDANT-APPELLANT.

VINCENT A. HEMMING, DISTRICT ATTORNEY, WARSAW (CHELSIE A. HAMILTON OF COUNSEL), FOR RESPONDENT.

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Appeal from a judgment of the Wyoming County Court (Melissa Lightcap Cianfrini, A.J.), rendered June 14, 2024. The judgment convicted defendant, upon his plea of guilty, of criminal sale of a controlled substance in the fourth degree.

It is hereby ORDERED that the appeal from the judgment insofar as it imposed sentence is unanimously dismissed and the judgment is affirmed.

Memorandum: Defendant appeals from a judgment convicting him, upon his plea of guilty, of criminal sale of a controlled substance in the fourth degree (Penal Law § 220.34 [1]), arising from defendant's sale of Suboxone to another person.

We note at the outset that, inasmuch as the sentence originally imposed has been superseded by a resentencing, the appeal from the judgment insofar as it imposed sentence must be dismissed (*see People v Weathington* [appeal No. 2], 141 AD3d 1173, 1173 [4th Dept 2016], *lv denied* 28 NY3d 975 [2016]; *People v Primm*, 57 AD3d 1525, 1525 [4th Dept 2008], *lv denied* 12 NY3d 820 [2009]).

Defendant contends that County Court had no authority to issue an order of protection in favor of an individual who was neither a victim of nor a witness to the crime to which defendant pleaded guilty. Defendant failed to object at sentencing to the issuance of the order of protection and thus failed to preserve for our review his challenge to the validity of that order of protection (*see People v Loverde*, 151 AD3d 1738, 1739 [4th Dept 2017]; *People v Russell*, 120 AD3d 1594, 1594-1595 [4th Dept 2014], *lv denied* 24 NY3d 1046 [2014]; *People v Collins*, 117 AD3d 1535, 1535 [4th Dept 2014], *lv denied* 24 NY3d 1082 [2014], *reconsideration denied* 24 NY3d 1218 [2015]). We decline to

exercise our power to review that contention as a matter of discretion in the interest of justice (see CPL 470.15 [3] [c]).

Entered: June 5, 2026

Ann Dillon Flynn  
Clerk of the Court