

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

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KA 23-01511

PRESENT: LINDLEY, J.P., BANNISTER, MONTOUR, GREENWOOD, AND HANNAH, JJ.

THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

DARRYL BRADSHAW, DEFENDANT-APPELLANT.

KEEM APPEALS, PLLC, SYRACUSE (BRADLEY E. KEEM OF COUNSEL), FOR
DEFENDANT-APPELLANT.

BRITTANY GROME ANTONACCI, DISTRICT ATTORNEY, AUBURN (CHRISTOPHER T.
VALDINA OF COUNSEL), FOR RESPONDENT.

Appeal from a judgment of the Cayuga County Court (Thomas G. Leone, J.), rendered August 31, 2023. 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 plea of guilty, of attempted assault in the second degree (Penal Law §§ 110.00, 120.05 [3]). The charge arose from an incident in which defendant, while incarcerated at the Cayuga Correctional Facility, assaulted a correction officer with a "cutting weapon."

Defendant contends that County Court erred in denying defense counsel's request for a competency examination of defendant pursuant to CPL 730.30. That contention " 'survives the plea . . . to the extent that it implicates the voluntariness of the plea' " (*People v Yeara*, 227 AD3d 1517, 1518 [4th Dept 2024], *lv denied* 42 NY3d 1082 [2025]; *see People v Chapman*, 179 AD3d 1526, 1527 [4th Dept 2020], *lv denied* 35 NY3d 968 [2020]). Nevertheless, we reject defendant's contention. A court must issue an order of examination "when it is of the opinion that the defendant may be an incapacitated person" (CPL 730.30 [1]). "The determination whether to order a competency examination, either sua sponte or upon defense counsel's request, lies within the sound discretion of the court" (*People v Thorpe*, 218 AD3d 1124, 1125 [4th Dept 2023], citing *People v Morgan*, 87 NY2d 878, 879-880 [1995]). Here, we conclude that the court did not abuse its discretion in denying the request inasmuch as the court had ample opportunity to observe defendant prior to that request, and there is no indication in the record that defendant " 'was unable to understand the proceedings or that he was mentally incompetent at the time he

entered his guilty plea' " (*People v Robinson*, 225 AD3d 1266, 1267 [4th Dept 2024], *lv denied* 42 NY3d 1021 [2024]; see *Thorpe*, 218 AD3d at 1125; *People v Watson*, 45 AD3d 1342, 1344 [4th Dept 2007], *lv denied* 10 NY3d 818 [2008]).

Entered: June 26, 2026

Ann Dillon Flynn
Clerk of the Court