

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

133

KA 17-01697

PRESENT: WHALEN, P.J., CENTRA, PERADOTTO, AND NEMOYER, JJ.

THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

REMY D. ALLEN, DEFENDANT-APPELLANT.

TIMOTHY P. DONAHER, PUBLIC DEFENDER, ROCHESTER (HELEN SYME OF COUNSEL), FOR DEFENDANT-APPELLANT.

SANDRA DOORLEY, DISTRICT ATTORNEY, ROCHESTER (LEAH R. MERVINE OF COUNSEL), FOR RESPONDENT.

Appeal from a judgment of the Supreme Court, Monroe County (Thomas E. Moran, J.), rendered August 14, 2017. The judgment convicted defendant, upon a plea of guilty, of criminal possession of a weapon 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 criminal possession of a weapon in the second degree (Penal Law § 265.03 [3]). Defendant does not raise any challenge to the validity of his waiver of the right to appeal (see *People v Seymore*, 188 AD3d 1767, 1768 [4th Dept 2020], *lv denied* 36 NY3d 1100 [2021]; *People v Rosado-Thomas*, 181 AD3d 1166, 1166 [4th Dept 2020], *lv denied* 35 NY3d 1048 [2020]). Thus, defendant's challenge to the severity of the postrelease supervision component of his agreed-upon sentence "is foreclosed by his unchallenged waiver of the right to appeal" (*Rosado-Thomas*, 181 AD3d at 1167; see *Seymore*, 188 AD3d at 1770).

Entered: March 11, 2022

Ann Dillon Flynn
Clerk of the Court