

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

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KA 22-00419

PRESENT: SMITH, J.P., LINDLEY, MONTOUR, GREENWOOD, AND DELCONTE, JJ.

THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

EMMANUEL L. WALLS, DEFENDANT-APPELLANT.

THOMAS L. PELYCH, HORNELL, 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 March 10, 2022. The judgment convicted defendant, upon his plea of guilty, of criminal contempt in the first degree and driving while intoxicated.

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 contempt in the first degree (Penal Law § 215.51 [c]) and driving while intoxicated as a misdemeanor (Vehicle and Traffic Law §§ 1192 [3]; 1193 [1] [b] [i]). "Although defendant's release to parole supervision does not render his challenge to the severity of the sentence moot because he remains under the control of the Parole Board until his sentence has terminated" (*People v Williams*, 160 AD3d 1470, 1471 [4th Dept 2018] [internal quotation marks omitted]), we reject defendant's contention that the sentence in this case is unduly harsh and severe insofar as it runs consecutively to a prior undischarged sentence (*see People v Romanowski*, 196 AD3d 1080, 1081 [4th Dept 2021], *lv denied* 37 NY3d 1029 [2021]).

Entered: November 17, 2023

Ann Dillon Flynn
Clerk of the Court