

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

980

KA 22-01196

PRESENT: SMITH, J.P., CURRAN, MONTOUR, GREENWOOD, AND NOWAK, JJ.

THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

JEFFREY R. HICKEY, DEFENDANT-APPELLANT.

HAYDEN M. DADD, CONFLICT DEFENDER, GENESEO (BRADLEY E. KEEM OF COUNSEL), FOR DEFENDANT-APPELLANT.

GREGORY J. MCCAFFREY, DISTRICT ATTORNEY, GENESEO (JOSHUA J. TONRA OF COUNSEL), FOR RESPONDENT.

Appeal from a judgment of the Livingston County Court (Jennifer M. Noto, J.), rendered July 7, 2022. The judgment convicted defendant upon his plea of guilty of attempted assault in the first degree.

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

Memorandum: On appeal from a judgment convicting him upon his plea of guilty of attempted assault in the first degree (Penal Law §§ 110.00, 120.10 [1]), defendant contends that his statutory right to a speedy trial was violated inasmuch as County Court erred in denying that part of his omnibus motion seeking to strike the People's certificate of compliance as invalid. By pleading guilty, defendant forfeited review of his contention regarding the motion to strike (see *People v Smith*, 217 AD3d 1578, 1578 [4th Dept 2023]). Moreover, defendant's statutory speedy trial contention is unpreserved for our review (see *People v Hardy*, 47 NY2d 500, 505 [1979]; *People v Valentin*, 183 AD3d 1271, 1272 [4th Dept 2020], *lv denied* 35 NY3d 1049 [2020]; *People v Pohl*, 160 AD3d 1453, 1454 [4th Dept 2018], *lv denied* 32 NY3d 940 [2018]; *cf. People v Gaskin*, 214 AD3d 1353, 1355 [4th Dept 2023]), and 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]; *Valentin*, 183 AD3d at 1272; *Pohl*, 160 AD3d at 1454). Finally, the sentence is not unduly harsh or severe.

Entered: December 22, 2023

Ann Dillon Flynn
Clerk of the Court