

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

762

KA 12-01703

PRESENT: SMITH, J.P., FAHEY, PERADOTTO, SCONIERS, AND VALENTINO, JJ.

THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

DEJUAN D. JACKSON, DEFENDANT-APPELLANT.

THE LEGAL AID BUREAU OF BUFFALO, INC., BUFFALO (BARBARA J. DAVIES OF COUNSEL), FOR DEFENDANT-APPELLANT.

FRANK A. SEDITA, III, DISTRICT ATTORNEY, BUFFALO (DAVID A. HERATY OF COUNSEL), FOR RESPONDENT.

Appeal from a judgment of the Erie County Court (Kenneth F. Case, J.), rendered September 4, 2012. The judgment convicted defendant, upon his plea of guilty, of burglary 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 burglary in the second degree (Penal Law § 140.25 [2]). Inasmuch as County Court made a determination at the time of sentencing whether defendant should be afforded youthful offender treatment (*cf. People v Rudolph*, 21 NY3d 497, 503), defendant's valid waiver of the right to appeal encompasses his contention that the court erred in denying his request for youthful offender status (*see People v Jones*, 108 AD3d 1213, 1214, *lv denied* 22 NY3d 997; *People v Jones*, 96 AD3d 1637, 1637, *lv denied* 19 NY3d 1103).

Entered: July 3, 2014

Frances E. Cafarell
Clerk of the Court