

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

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KA 12-00719

PRESENT: SMITH, J.P., CENTRA, PERADOTTO, SCONIERS, AND WHALEN, JJ.

THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

JERWIE RICHARDSON, DEFENDANT-APPELLANT.

TIMOTHY P. DONAHER, PUBLIC DEFENDER, ROCHESTER (JANE I. YOON OF COUNSEL), FOR DEFENDANT-APPELLANT.

SANDRA DOORLEY, DISTRICT ATTORNEY, ROCHESTER (NANCY GILLIGAN OF COUNSEL), FOR RESPONDENT.

Appeal from an order of the Supreme Court, Monroe County (Joseph D. Valentino, J.), entered January 4, 2012. The order determined that there was an error in the sentencing transcript and clarified the sentence.

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

Memorandum: On a prior appeal, we affirmed defendant's judgment of conviction (*People v Richardson*, 203 AD2d 932, lv denied 84 NY2d 831). Defendant now appeals from an order settling the transcript of his sentencing proceeding, correcting the scrivener's errors therein, and correcting the sentence and commitment form to reflect the sentence imposed. Although no appeal as of right lies from the order (see CPL 450.15 [3]; 450.30 [3]; see generally *People v Stevens*, 91 NY2d 270, 277), we treat the notice of appeal as an application for leave to appeal pursuant to CPL 460.15 and grant the application (see generally *People v Stevenson*, 176 AD2d 516, 517, lv denied 79 NY2d 832; *People v Frizer*, 328 NYS2d 368, 368).

Contrary to defendant's contention, the record establishes that the sentencing transcript contained a clerical error, and Supreme Court properly exercised its inherent power to correct the transcript, as well as the sentence and commitment form (see generally *People v Richardson*, 100 NY2d 847, 850; *People ex rel. Davidson v Kelly*, 193 AD2d 1140, 1141). Finally, we reject defendant's further contention that he was deprived of effective assistance of counsel (see *People v Wester*, 82 AD3d 1677, 1678, lv denied 17 NY3d 803; *People v Moye*, 13 AD3d 1123, 1123, lv denied 4 NY3d 833).

Entered: June 19, 2015

Frances E. Cafarell
Clerk of the Court