

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

**1401**

**KA 12-01164**

PRESENT: SMITH, J.P., FAHEY, WHALEN, AND DEJOSEPH, JJ.

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THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

VERNON WASHINGTON, DEFENDANT-APPELLANT.

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FRANK H. HISCOCK LEGAL AID SOCIETY, SYRACUSE (CHRISTINE M. COOK OF COUNSEL), FOR DEFENDANT-APPELLANT.

WILLIAM J. FITZPATRICK, DISTRICT ATTORNEY, SYRACUSE (MISHA A. COULSON OF COUNSEL), FOR RESPONDENT.

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Appeal from a judgment of the Onondaga County Court (Joseph E. Fahey, J.), rendered July 22, 2011. The judgment convicted defendant, upon his 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: On appeal 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 contends that County Court abused its discretion in directing that the sentence run consecutively to, rather than concurrently with, a prior undischarged sentence for an unrelated conviction. We reject that contention. The court did not abuse its discretion in determining that no mitigating circumstances were present to warrant the imposition of a concurrent sentence in the interest of justice (*see* Penal Law § 70.25 [2-b]; *see generally* *People v Garcia*, 84 NY2d 336, 341-343; *People v Elder*, 71 AD3d 1483, 1484, *lv denied* 16 NY3d 743, *reconsideration denied* 16 NY3d 858).

Entered: January 2, 2015

Frances E. Cafarell  
Clerk of the Court