

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

421

KA 15-01685

PRESENT: WHALEN, P.J., LINDLEY, NEMOYER, CURRAN, AND TROUTMAN, JJ.

THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

JOSHUA M. FURBECK, DEFENDANT-APPELLANT.

AMDURSKY, PELKY, FENNEL & WALLEN, P.C., OSWEGO (COURTNEY S. RADICK OF COUNSEL), FOR DEFENDANT-APPELLANT.

GREGORY S. OAKES, DISTRICT ATTORNEY, OSWEGO (AMY L. HALLENBECK OF COUNSEL), FOR RESPONDENT.

Appeal from a judgment of the Oswego County Court (Walter W. Hafner, Jr., J.), rendered August 24, 2012. The judgment convicted defendant, upon his plea of guilty, of grand larceny in the fourth 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 grand larceny in the fourth degree (Penal Law § 155.30 [4]). We reject defendant's contention that he did not knowingly, voluntarily, and intelligently waive his right to appeal. County Court engaged defendant "in an adequate colloquy to ensure that the waiver of the right to appeal was a knowing and voluntary choice" (*People v Ripley*, 94 AD3d 1554, 1554, *lv denied* 19 NY3d 976 [internal quotation marks omitted]; see *People v Marshall*, 144 AD3d 1544, 1545), and "[d]efendant's responses to County Court's questions unequivocally establish that defendant understood the proceedings and was voluntarily waiving the right to appeal" (*People v Buryta*, 85 AD3d 1621, 1622). Defendant's valid waiver of the right to appeal encompasses his contention that the court abused its discretion in denying his request for youthful offender status (see *People v Jones*, 96 AD3d 1637, 1637, *lv denied* 19 NY3d 1103; *People v Rush*, 94 AD3d 1449, 1449-1450, *lv denied* 19 NY3d 967; cf. *People v Matsulavage*, 121 AD3d 1581, *lv denied* 24 NY3d 1045).

Entered: March 31, 2017

Frances E. Cafarell
Clerk of the Court