

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

925

KA 15-01966

PRESENT: PERADOTTO, J.P., CARNI, LINDLEY, CURRAN, AND TROUTMAN, JJ.

THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

HENRY C. MARLING, DEFENDANT-APPELLANT.

THE LEGAL AID BUREAU OF BUFFALO, INC., BUFFALO (CAITLIN M. CONNELLY OF COUNSEL), FOR DEFENDANT-APPELLANT.

JOSEPH V. CARDONE, DISTRICT ATTORNEY, ALBION (KATHERINE BOGAN OF COUNSEL), FOR RESPONDENT.

Appeal from a judgment of the Orleans County Court (James P. Punch, J.), rendered November 9, 2015. The judgment convicted defendant, upon his plea of guilty, of burglary in the third 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 third degree (Penal Law § 140.20). Contrary to defendant's contention, the record establishes that his waiver of the right to appeal was knowing, intelligent and voluntary (*see People v Lopez*, 6 NY3d 248, 256), and we conclude that the valid waiver encompasses his challenge to the severity of the sentence (*see People v Hidalgo*, 91 NY2d 733, 737; *cf. People v Maracle*, 19 NY3d 925, 928).

Entered: June 30, 2017

Frances E. Cafarell
Clerk of the Court