

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

1181

**KA 15-00452**

PRESENT: SMITH, J.P., PERADOTTO, DEJOSEPH, NEMOYER, AND CURRAN, JJ.

---

THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

SHAVELLE L. SCOTT, DEFENDANT-APPELLANT.

---

DAVISON LAW OFFICE PLLC, CANANDAIGUA (MARY P. DAVISON OF COUNSEL), FOR DEFENDANT-APPELLANT.

BROOKS T. BAKER, DISTRICT ATTORNEY, BATH (JOHN C. TUNNEY OF COUNSEL), FOR RESPONDENT.

---

Appeal from a judgment of the Steuben County Court (Marianne Furfure, A.J.), rendered August 21, 2014. The judgment convicted defendant, upon his plea of guilty, of attempted criminal possession of a controlled substance 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 attempted criminal possession of a controlled substance in the third degree (Penal Law §§ 110.00, 220.16 [12]). Pursuant to the terms of the plea agreement, County Court sentenced defendant to a period of interim probation for one year but, after defendant violated one of the conditions thereof by absconding from probation supervision, the court sentenced him to a determinate term of incarceration of four years with two years of postrelease supervision. Defendant's only contention on appeal is that the periods of incarceration and postrelease supervision are unduly harsh and severe and should be reduced in the interest of justice. We reject that contention. Defendant pleaded guilty to a reduced charge knowing that, upon a violation of his interim probation, he would receive the sentence ultimately imposed by the court, and he failed to abide by the conditions of the plea. We thus perceive no reason to reduce the periods of incarceration or postrelease supervision as a matter of discretion in the interest of justice (see CPL 470.15 [6] [b]; see generally *People v Farrar*, 52 NY2d 302, 305-306 [1981]).

Entered: November 9, 2017

Mark W. Bennett  
Clerk of the Court