

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

**389**

**KA 16-00443**

PRESENT: SMITH, J.P., CENTRA, NEMOYER, CURRAN, AND TROUTMAN, JJ.

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THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

MARK L. BURDICK, II, DEFENDANT-APPELLANT.

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THE LEGAL AID BUREAU OF BUFFALO, INC. (MICHAEL S. DEAL OF COUNSEL),  
FOR DEFENDANT-APPELLANT.

LORI PETTIT RIEMAN, DISTRICT ATTORNEY, LITTLE VALLEY, FOR RESPONDENT.

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Appeal from a judgment of the Cattaraugus County Court (Ronald D. Ploetz, J.), rendered January 25, 2016. The judgment convicted defendant, upon his plea of guilty, of assault in the second 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 assault in the second degree (Penal Law § 120.05 [2]). Contrary to defendant's contention, the record establishes that his waiver of his right to appeal was knowing, intelligent and voluntary (*see generally People v Lopez*, 6 NY3d 248, 256 [2006]). Defendant's valid waiver of the right to appeal forecloses his challenge to the severity of the sentence (*see id.* at 255).

Entered: March 16, 2018

Mark W. Bennett  
Clerk of the Court