

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

137

KA 16-01313

PRESENT: SMITH, J.P., CENTRA, DEJOSEPH, CURRAN, AND WINSLOW, JJ.

THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

RONALD J. FLAGG, DEFENDANT-APPELLANT.

FRANK J. NEBUSH, JR., PUBLIC DEFENDER, UTICA (DAVID A. COOKE OF COUNSEL), FOR DEFENDANT-APPELLANT.

SCOTT D. MCNAMARA, DISTRICT ATTORNEY, UTICA (STEVEN G. COX OF COUNSEL), FOR RESPONDENT.

Appeal from a judgment of the Oneida County Court (Barry M. Donalty, J.), rendered January 22, 2015. The judgment convicted defendant, upon his plea of guilty, of criminal possession of a weapon in the second degree and attempted 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]) and attempted criminal possession of a weapon in the second degree (§§ 110.00, 265.03 [3]), defendant contends that he did not validly waive his right to appeal and that his sentence is unduly harsh and severe. The record establishes that his waiver of the right to appeal was knowing, intelligent and voluntary (*see People v Bryant*, 28 NY3d 1094, 1096 [2016]; *People v Colon*, 122 AD3d 1309, 1309 [4th Dept 2014], *lv denied* 25 NY3d 1200 [2015]), and the valid waiver of the right to appeal encompasses his challenge to the severity of the sentence (*see People v Lopez*, 6 NY3d 248, 255-256 [2006]).

Entered: February 1, 2019

Mark W. Bennett
Clerk of the Court