

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

1130

**KA 19-00088**

PRESENT: CENTRA, J.P., PERADOTTO, NEMOYER, TROUTMAN, AND WINSLOW, JJ.

---

THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

ANTOINE DAVIS, DEFENDANT-APPELLANT.

---

THE LEGAL AID BUREAU OF BUFFALO, INC., BUFFALO (ROBERT L. KEMP OF COUNSEL), FOR DEFENDANT-APPELLANT.

JOHN J. FLYNN, DISTRICT ATTORNEY, BUFFALO (DANIEL J. PUNCH OF COUNSEL), FOR RESPONDENT.

---

Appeal from a judgment of the Supreme Court, Erie County (Deborah A. Haendiges, J.), rendered November 7, 2018. The judgment convicted defendant, upon a plea of guilty, of resisting arrest and criminal contempt 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 resisting arrest (Penal Law § 205.30) and criminal contempt in the second degree (§ 215.50 [3]). Even assuming, arguendo, that defendant did not validly waive his right to appeal, we nevertheless conclude that the sentence is not unduly harsh or severe "to the extent that [he] remains subject to [it]" (*People v Adair*, 177 AD3d 1357, 1358 [4th Dept 2019], *lv denied* 34 NY3d 1125 [2020]).

Entered: December 23, 2020

Mark W. Bennett  
Clerk of the Court