

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

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KA 19-00371

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

THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

ERNEST A. SMITH, ALSO KNOWN AS ERNEST SMITH, ALSO
KNOWN AS EARNEST A. SMITH, DEFENDANT-APPELLANT.

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

LAWRENCE FRIEDMAN, DISTRICT ATTORNEY, BATAVIA (ROBERT J. SHOEMAKER OF
COUNSEL), FOR RESPONDENT.

Appeal from a judgment of the Genesee County Court (Charles N. Zambito, J.), rendered October 5, 2018. The judgment convicted defendant upon a plea of guilty of attempted forgery 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 attempted forgery in the second degree (Penal Law §§ 110.00, 170.10 [2]). Defendant's sole contention on appeal is that the waiver of indictment is jurisdictionally defective because the written instrument did not include statements required by CPL 195.20 (a) through (c). Contrary to defendant's contention, the written waiver of indictment, which was filed with the Genesee County Clerk together with the superior court information and the order of County Court approving defendant's waiver of indictment and consent to be prosecuted by superior court information, contains all of the information required by CPL 195.20 and is therefore not jurisdictionally defective.

Entered: April 30, 2021

Mark W. Bennett
Clerk of the Court