

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

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**KA 12-01614**

PRESENT: SCUDDER, P.J., FAHEY, PERADOTTO, CARNI, AND VALENTINO, JJ.

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THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

PETER J. HARRIS, DEFENDANT-APPELLANT.

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TIMOTHY J. BRENNAN, AUBURN, FOR DEFENDANT-APPELLANT.

JON E. BUDELMANN, DISTRICT ATTORNEY, AUBURN (CARL J. ROSENKRANZ OF COUNSEL), FOR RESPONDENT.

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Appeal from a judgment of the Cayuga County Court (Thomas G. Leone, J.), rendered December 8, 2011. The judgment convicted defendant, upon a jury verdict, of criminal possession of a weapon in the third degree, criminal mischief in the third degree, menacing in the second degree and harassment 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 a jury verdict of, inter alia, criminal possession of a weapon in the third degree (Penal Law § 265.02 [1]) and criminal mischief in the third degree (§ 145.05 [2]). Viewing the evidence in light of the elements of the crime of criminal possession of a weapon in the third degree as charged to the jury (*see People v Danielson*, 9 NY3d 342, 349), we conclude that the verdict convicting defendant of that crime is not against the weight of the evidence (*see generally People v Bleakley*, 69 NY2d 490, 495). Contrary to defendant's further contention, the evidence is legally sufficient to support the conviction of criminal mischief in the third degree (*see generally id.*). Finally, the sentence is not unduly harsh or severe.

Entered: February 7, 2014

Frances E. Cafarell  
Clerk of the Court