

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

**1094**

**KA 15-01172**

PRESENT: WHALEN, P.J., CENTRA, LINDLEY, NEMOYER, AND TROUTMAN, JJ.

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THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

RAMON SALAS, JR., DEFENDANT-APPELLANT.

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THE LEGAL AID BUREAU OF BUFFALO, INC., BUFFALO (TIMOTHY P. MURPHY OF COUNSEL), FOR DEFENDANT-APPELLANT.

MICHAEL J. FLAHERTY, JR., ACTING DISTRICT ATTORNEY, BUFFALO (DAVID A. HERATY OF COUNSEL), FOR RESPONDENT.

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Appeal from a judgment of the Erie County Court (Michael F. Pietruszka, J.), rendered May 29, 2015. The judgment revoked defendant's sentence of probation and imposed a sentence of imprisonment.

It is hereby ORDERED that the judgment so appealed from is unanimously affirmed.

Memorandum: Defendant appeals from a judgment that, upon his admission that he violated the terms and conditions of probation, revoked the sentence of probation imposed upon his conviction of burglary in the third degree (Penal Law § 140.20) and sentenced him to an indeterminate term of incarceration of 1 to 3 years. Even assuming, arguendo, that defendant's waiver of the right to appeal was invalid and does not preclude our review of his challenge to the severity of the sentence (*see People v Davis*, 114 AD3d 1166, 1167, *lv denied* 23 NY3d 1035; *People v Theall*, 109 AD3d 1107, 1108, *lv denied* 22 NY3d 1159), we nevertheless conclude that the sentence is not unduly harsh or severe.

Entered: February 10, 2017

Frances E. Cafarell  
Clerk of the Court