

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

1247

KA 15-00943

PRESENT: CARNI, J.P., LINDLEY, DEJOSEPH, TROUTMAN, AND WINSLOW, JJ.

THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

NATHANAL J. ROOKER, DEFENDANT-APPELLANT.

WILLIAMS HEINL MOODY BUSCHMAN, P.C., AUBURN (MARIO J. GUTIERREZ OF COUNSEL), FOR DEFENDANT-APPELLANT.

JON E. BUDELMANN, DISTRICT ATTORNEY, AUBURN (CHRISTOPHER T. VALDINA OF COUNSEL), FOR RESPONDENT.

Appeal from a judgment of the Cayuga County Court (Mark H. Fandrich, A.J.), rendered January 13, 2015. The judgment convicted defendant, upon his plea of guilty, of rape in the third 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 rape in the third degree (Penal Law § 130.25 [3]). Contrary to defendant's contention, we conclude that defendant knowingly, intelligently, and voluntarily waived his right to appeal (*see People v Lopez*, 6 NY3d 248, 256 [2006]) and, because County Court discussed the possibility of adjudicating defendant a youthful offender during the plea colloquy (*see People v Daigler*, 148 AD3d 1685, 1686 [4th Dept 2017]; *cf. People v Anderson*, 90 AD3d 1475, 1475-1476 [4th Dept 2011], *lv denied* 18 NY3d 991 [2012]), that waiver encompasses defendant's challenge to the denial of his request for youthful offender status (*see People v Pacherille*, 25 NY3d 1021, 1024 [2015]).

Entered: November 17, 2017

Mark W. Bennett
Clerk of the Court