

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

**781**

**KA 16-01236**

PRESENT: SMITH, J.P., CENTRA, LINDLEY, CURRAN, AND WINSLOW, JJ.

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THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

LAMAR DAVIS, DEFENDANT-APPELLANT.

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

JOHN J. FLYNN, DISTRICT ATTORNEY, BUFFALO (JULIE BENDER FISKE OF COUNSEL), FOR RESPONDENT.

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Appeal from a judgment of the Erie County Court (David W. Foley, A.J.), rendered July 11, 2016. The judgment convicted defendant, upon his plea of guilty, of criminal possession of a weapon in the second degree and criminal possession of a controlled substance in the fifth 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 criminal possession of a weapon in the second degree (Penal Law § 265.03 [3]) and criminal possession of a controlled substance in the fifth degree (§ 220.06 [5]). With respect to defendant's contention that evidence should have been suppressed as the result of an unreasonable search and seizure, we affirm for reasons stated in the decision at County Court (Pietruszka, J.). Contrary to defendant's further contention, the two-year period of postrelease supervision imposed by County Court (Foley, A.J.) for the conviction of criminal possession of a controlled substance in the fifth degree is not illegal (see §§ 70.45 [2] [c]; 70.70 [4] [b]), and the sentence imposed for that count is not unduly harsh or severe.

Entered: June 8, 2018

Mark W. Bennett  
Clerk of the Court