

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

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KA 16-00799

PRESENT: SMITH, J.P., LINDLEY, DEJOSEPH, NEMOYER, AND TROUTMAN, JJ.

THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

ALVIN B. SCOTT, ALSO KNOWN AS ALVIN NEAL,
DEFENDANT-APPELLANT.

TIMOTHY P. DONAHER, PUBLIC DEFENDER, ROCHESTER (BENJAMIN L. NELSON OF
COUNSEL), FOR DEFENDANT-APPELLANT.

SANDRA DOORLEY, DISTRICT ATTORNEY, ROCHESTER (STEPHEN X. O'BRIEN OF
COUNSEL), FOR RESPONDENT.

Appeal from a judgment of the Monroe County Court (James J. Piampiano, J.), rendered December 17, 2015. The judgment convicted defendant upon a plea of guilty of assault in the first 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 assault in the first degree (Penal Law § 120.10 [1]). Contrary to defendant's contention, he knowingly, intelligently, and voluntarily waived his right to appeal (see generally *People v Thomas*, - NY3d -, -, 2019 NY Slip Op 08545, *4-6 [2019]). That valid waiver encompasses his challenge to the severity of the sentence (see *People v Lopez*, 6 NY3d 248, 255-256 [2006]). In any event, the sentence is not unduly harsh or severe.

Entered: February 7, 2020

Mark W. Bennett
Clerk of the Court