

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

448

KA 16-02099

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

THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

JERALD J. DAVIS, JR., DEFENDANT-APPELLANT.
(APPEAL NO. 2.)

TIMOTHY P. DONAHER, PUBLIC DEFENDER, ROCHESTER (JANET C. SOMES OF COUNSEL), FOR DEFENDANT-APPELLANT.

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

Appeal from a resentencing of the Supreme Court, Monroe County (Joanne M. Winslow, J.), rendered October 4, 2016. Defendant was resentedenced upon his conviction of robbery in the second degree.

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

Memorandum: In appeal No. 1, defendant appeals from a judgment convicting him upon his plea of guilty of robbery in the second degree (Penal Law § 160.10 [2] [a]) and, in appeal No. 2, he appeals from a resentencing on that conviction. Initially, we note that defendant's contention on appeal concerns only the resentencing in appeal No. 2, and we therefore dismiss the appeal from the judgment in appeal No. 1 (see *People v Loiz* [appeal No. 2], 175 AD3d 872, 872-873 [4th Dept 2019]; *People v Patterson*, 128 AD3d 1377, 1377 [4th Dept 2015]). Contrary to defendant's contention, the resentencing is not unduly harsh or severe.

Entered: August 20, 2020

Mark W. Bennett
Clerk of the Court