

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

509

KA 13-01462

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

THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

CORTNEY J. WILLIAMS, DEFENDANT-APPELLANT.

TIMOTHY P. DONAHER, PUBLIC DEFENDER, ROCHESTER (JANE I. YOON OF COUNSEL), FOR DEFENDANT-APPELLANT.

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

Appeal from a judgment of the Supreme Court, Monroe County (Thomas E. Moran, J.), rendered April 29, 2013. The judgment convicted defendant, upon his plea of guilty, of robbery in the second 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 robbery in the second degree (Penal Law § 160.10 [1]). The charge arose from an incident during which defendant and an accomplice stole property at gunpoint from a store clerk. Although we agree with defendant that the waiver of the right to appeal does not encompass his challenge to the severity of the negotiated sentence "inasmuch as there is no indication in the record of the plea allocution that defendant was waiving his right to appeal the severity of the sentence" (*People v Doblinger*, 117 AD3d 1484, 1485; see *People v Maracle*, 19 NY3d 925, 928), we conclude that the sentence is not unduly harsh or severe.

Entered: June 17, 2016

Frances E. Cafarell
Clerk of the Court