

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

296

KA 17-00886

PRESENT: WHALEN, P.J., PERADOTTO, LINDLEY, CURRAN, AND TROUTMAN, JJ.

THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

LAWRENCE J. SMITH, DEFENDANT-APPELLANT.

DAVID J. FARRUGIA, PUBLIC DEFENDER, LOCKPORT (JOSEPH G. FRAZIER OF COUNSEL), FOR DEFENDANT-APPELLANT.

CAROLINE A. WOJTASZEK, DISTRICT ATTORNEY, LOCKPORT (THOMAS H. BRANDT OF COUNSEL), FOR RESPONDENT.

Appeal from a judgment of the Niagara County Court (Sara Sheldon, J.), rendered December 16, 2016. The judgment convicted defendant, upon his plea of guilty, of assault in the first degree.

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

Memorandum: On appeal from a judgment convicting him upon his plea of guilty of assault in the first degree (Penal Law § 120.10 [1]), defendant challenges the severity of the sentence. Contrary to defendant's contention, his waiver of the right to appeal encompasses that challenge. The record establishes that he voluntarily, knowingly and intelligently waived the right to appeal with respect to all aspects of his case, including his sentence, and that he was informed of the maximum sentence that County Court could impose (*see People v Lococo*, 92 NY2d 825, 827 [1998]; *cf. People v Maracle*, 19 NY3d 925, 928 [2012]).

Entered: March 16, 2018

Mark W. Bennett
Clerk of the Court