

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

**431**

**KA 19-00803**

PRESENT: SMITH, J.P., PERADOTTO, NEMOYER, CURRAN, AND DEJOSEPH, JJ.

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THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

RONALD D. ROBINSON, JR., DEFENDANT-APPELLANT.  
(APPEAL NO. 1.)

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TODD G. MONAHAN, LITTLE FALLS, FOR DEFENDANT-APPELLANT.

KRISTYNA S. MILLS, DISTRICT ATTORNEY, WATERTOWN (NOLAN D. PITKIN OF COUNSEL), FOR RESPONDENT.

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Appeal from a judgment of the Jefferson County Court (Kim H. Martusewicz, J.), rendered June 23, 2017. The judgment convicted defendant, upon a plea of guilty, of criminal sale of a controlled substance in the third degree.

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

Memorandum: In appeal No. 1, defendant appeals from a judgment convicting him, upon a plea of guilty, of criminal sale of a controlled substance in the third degree (Penal Law § 220.39 [1]). In appeal No. 2, defendant appeals from a judgment convicting him, upon a plea of guilty, of attempted assault in the second degree (§§ 110.00, 120.05 [2]). The two pleas were entered in a single plea proceeding. Although not raised by the parties, the purported waiver of the right to appeal here is invalid (*see People v Cruz*, 182 AD3d 999, 999 [4th Dept 2020]; *People v McKenzie* [appeal No. 2], 181 AD3d 1319, 1320 [4th Dept 2020]; *People v Bumpars*, 178 AD3d 1379, 1379-1380 [4th Dept 2019], *lv denied* 36 NY3d 1055 [2021]).

In both appeals, defendant contends that his guilty plea was the result of undue coercion by County Court. That contention is unreserved inasmuch as defendant failed to move to withdraw his plea or vacate the judgment of conviction (*see People v Lopez*, 189 AD3d 2152, 2152 [4th Dept 2020]; *People v Ingram*, 188 AD3d 1650, 1651 [4th Dept 2020]; *People v Bellamy*, 170 AD3d 1652, 1653 [4th Dept 2019]). We decline to exercise our power to review that contention as a matter of discretion in the interest of justice (*see CPL 470.15 [3] [c]*).

Defendant also contends that he received ineffective assistance of counsel, which concerns matters outside the record. Defendant brought a CPL article 440 motion to address that contention, which the

court denied. Because defendant did not obtain permission to appeal that order, his contention is not properly before us (see CPL 450.15 [1]; see generally *People v Dewitt*, 52 AD3d 1184, 1185 [4th Dept 2008], *lv denied* 11 NY3d 787 [2008]).

Entered: April 30, 2021

Mark W. Bennett  
Clerk of the Court