

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

894

KA 18-01545

PRESENT: WHALEN, P.J., PERADOTTO, NEMOYER, CURRAN, AND BANNISTER, JJ.

THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

XAVIER BLANDING, DEFENDANT-APPELLANT.

JILL L. PAPERNO, ACTING PUBLIC DEFENDER, ROCHESTER (CLEA WEISS OF COUNSEL), FOR DEFENDANT-APPELLANT.

SANDRA DOORLEY, DISTRICT ATTORNEY, ROCHESTER (LISA GRAY OF COUNSEL), FOR RESPONDENT.

Appeal from a judgment of the Supreme Court, Monroe County (Judith A. Sinclair, J.), rendered July 9, 2018. The judgment revoked defendant's sentence of probation and imposed a sentence of imprisonment.

It is hereby ORDERED that said appeal from the judgment insofar as it imposed sentence is unanimously dismissed and the judgment is affirmed.

Memorandum: Defendant appeals from a judgment revoking his sentence of probation imposed upon his conviction of driving while intoxicated, a class E felony (Vehicle and Traffic Law §§ 1192 [3]; 1193 [1] [c] [i]), and aggravated unlicensed operation of a motor vehicle in the first degree (§ 511 [3] [a] [i]) and sentencing him to an indeterminate term of imprisonment. Defendant contends that he was denied due process because Supreme Court failed to provide an adequate statement of its reasoning in revoking his sentence of probation (see *Gagnon v Scarpelli*, 411 US 778, 785-786 [1973]; *People v McCloud*, 205 AD2d 1024, 1025 [3d Dept 1994], *lv denied* 86 NY2d 738 [1995]). That contention is not preserved for our review because defendant failed to object to the sufficiency of the court's findings (see generally CPL 470.05 [2]) and, in any event, it lacks merit (see *People v Hare*, 124 AD3d 1148, 1149 [3d Dept 2015], *lv denied* 26 NY3d 929 [2015]). Inasmuch as defendant has completed serving the sentence imposed, his challenge to the severity of the sentence is moot (see *People v Hancarik*, 202 AD3d 1151, 1151 [3d Dept 2022]; *People v Swick*, 147 AD3d 1346, 1346 [4th Dept 2017], *lv denied* 29 NY3d 1001 [2017]).

Entered: December 23, 2022

Ann Dillon Flynn
Clerk of the Court