

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

903

KA 22-01003

PRESENT: WHALEN, P.J., CURRAN, OGDEN, GREENWOOD, AND NOWAK, JJ.

THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

DEVONAIRE KING, DEFENDANT-APPELLANT.

FRANK H. HISCOCK LEGAL AID SOCIETY, SYRACUSE (SARA A. GOLDFARB OF COUNSEL), FOR DEFENDANT-APPELLANT.

Appeal from a judgment of the Onondaga County Court (Gordon J. Cuffy, A.J.), rendered June 15, 2022. The judgment convicted defendant, upon his plea of guilty, of criminal possession of a weapon 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 criminal possession of a weapon in the second degree (Penal Law § 265.03 [1] [b]).

Contrary to defendant's contention on appeal, his sentence is not unduly harsh or severe. However, both the certificate of conviction and the uniform sentence and commitment form must be corrected to reflect defendant's status as a second violent felony offender rather than a second felony offender (*see People v Nelson*, 206 AD3d 1703, 1704 [4th Dept 2022], *lv denied* 38 NY3d 1152 [2022]; *People v Mobayed*, 158 AD3d 1221, 1223 [4th Dept 2018], *lv denied* 31 NY3d 1015 [2018]).

Entered: March 15, 2024

Ann Dillon Flynn
Clerk of the Court