

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

951

KA 22-00446

PRESENT: WHALEN, P.J., LINDLEY, BANNISTER, OGDEN, AND DELCONTE, JJ.

THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

KENNETH R. SCOTT, JR., DEFENDANT-APPELLANT.
(APPEAL NO. 1.)

RYAN JAMES MULDOON, AUBURN, FOR DEFENDANT-APPELLANT.

BRITTANY GROME ANTONACCI, DISTRICT ATTORNEY, AUBURN (CHRISTOPHER T. VALDINA OF COUNSEL), FOR RESPONDENT.

Appeal from a judgment of the Cayuga County Court (Thomas G. Leone, J.), rendered March 10, 2022. The judgment convicted defendant, upon his plea of guilty, of assault in the second degree.

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

Memorandum: In these consolidated appeals, defendant appeals, in appeal No. 1, from a judgment convicting him, upon his plea of guilty, of assault in the second degree (Penal Law § 120.05 [2]). In appeal No. 2, defendant appeals from a judgment convicting him, upon his plea of guilty, of criminal possession of a weapon in the fourth degree (§ 265.01 [2]). In appeal No. 3, defendant appeals from a judgment convicting him, upon his plea of guilty, of burglary in the second degree (§ 140.25 [2]). The three pleas were entered in a single plea proceeding.

Defendant contends in these appeals that his sentences are unduly harsh and severe. We reject that contention. Defendant's plea agreement provided that all three sentences would run concurrently, and thus defendant avoided the possibility that consecutive sentences would be imposed. Under the circumstances, it cannot be said that the sentences are unduly harsh or severe (*see generally People v Engert*, 263 AD2d 959, 959 [4th Dept 1999], *lv denied* 93 NY2d 1017 [1999]).

Entered: March 15, 2024

Ann Dillon Flynn
Clerk of the Court