

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

1156

KA 12-00633

PRESENT: SCUDDER, P.J., FAHEY, PERADOTTO, LINDLEY, AND VALENTINO, JJ.

THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

KYRIQUE L. MASSEY, DEFENDANT-APPELLANT.

LEANNE LAPP, PUBLIC DEFENDER, CANANDAIGUA (MARY P. DAVISON OF COUNSEL), FOR DEFENDANT-APPELLANT.

R. MICHAEL TANTILLO, DISTRICT ATTORNEY, CANANDAIGUA (BRIAN D. DENNIS OF COUNSEL), FOR RESPONDENT.

Appeal from a judgment of the Ontario County Court (Craig J. Doran, J.), rendered January 6, 2012. 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 [3]). The record does not support defendant's contention that County Court misapprehended the extent of its discretion when it denied his request for a "violent felony override" pursuant to 7 NYCRR 1900.4 (c) (1) (iii) (*see People v Williams*, 84 AD3d 1417, 1417, *lv denied* 17 NY3d 863; *see generally People v Singer*, 104 AD3d 1311, 1311), and we reject defendant's further contention that the court abused its discretion in denying that request. The sentence, which is in accordance with the terms of the plea agreement, is not unduly harsh or severe.

Entered: November 8, 2013

Frances E. Cafarell
Clerk of the Court