

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

649

**KA 12-01895**

PRESENT: CENTRA, J.P., FAHEY, PERADOTTO, SCONIERS, AND DEJOSEPH, JJ.

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THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

JAQUON SNELL, DEFENDANT-APPELLANT.

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THE LEGAL AID BUREAU OF BUFFALO, INC., BUFFALO (SHERRY A. CHASE OF COUNSEL), FOR DEFENDANT-APPELLANT.

FRANK A. SEDITA, III, DISTRICT ATTORNEY, BUFFALO (ASHLEY R. SMALL OF COUNSEL), FOR RESPONDENT.

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Appeal from a judgment of the Supreme Court, Erie County (Christopher J. Burns, J.), rendered September 5, 2012. The judgment convicted defendant, upon his plea of guilty, of robbery in the first 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 robbery in the first degree (Penal Law § 160.15 [4]). We reject defendant's contention that Supreme Court erred in refusing to suppress an identification of defendant based on an allegedly suggestive photo array identification procedure conducted by the police. The People met their initial burden of establishing the reasonableness of the police conduct at issue, and defendant failed to meet his ultimate burden of proving that the identification procedure was unduly suggestive (*see People v Alston*, 101 AD3d 1672, 1672-1673; *see generally People v Chipp*, 75 NY2d 327, 335, *cert denied* 498 US 833). Contrary to defendant's further contention, the sentence is not unduly harsh and severe.

Entered: June 13, 2014

Frances E. Cafarell  
Clerk of the Court