

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

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KA 13-01863

PRESENT: SCUDDER, P.J., SMITH, CARNI, LINDLEY, AND DEJOSEPH, JJ.

THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

MATTHEW B. HORTON, DEFENDANT-APPELLANT.

DAVISON LAW OFFICE, PLLC, CANANDAIGUA (MARY P. DAVISON OF COUNSEL),
FOR DEFENDANT-APPELLANT.

BROOKS T. BAKER, DISTRICT ATTORNEY, BATH (JOHN C. TUNNEY OF COUNSEL),
FOR RESPONDENT.

Appeal from a judgment of the Steuben County Court (Marianne Furfure, A.J.), rendered July 9, 2013. The judgment convicted defendant, upon his plea of guilty, of grand larceny in the second degree and attempted kidnapping in the second degree.

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

Memorandum: On appeal from a judgment convicting him upon his plea of guilty of grand larceny in the second degree (Penal Law § 155.40 [1]) and attempted kidnapping in the second degree (§§ 110.00, 135.20), defendant contends that his negotiated sentence is unduly harsh and severe. Even assuming, arguendo, that defendant's waiver of the right to appeal does not encompass his challenge to the severity of the sentence (*see People v Maracle*, 19 NY3d 925, 928), we reject that challenge.

Entered: June 19, 2015

Frances E. Cafarell
Clerk of the Court