

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

**1013**

**KA 14-00257**

PRESENT: CENTRA, J.P., PERADOTTO, CARNI, WHALEN, AND DEJOSEPH, JJ.

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THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

BRIAN C. WEAVER, DEFENDANT-APPELLANT.

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DAVISON LAW OFFICE, PLLC, CANANDAIGUA (MARK C. DAVISON OF COUNSEL),  
FOR DEFENDANT-APPELLANT.

SANDRA DOORLEY, DISTRICT ATTORNEY, ROCHESTER (NANCY GILLIGAN OF  
COUNSEL), FOR RESPONDENT.

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Appeal from a judgment of the Monroe County Court (Vincent M. Dinolfo, J.), rendered January 30, 2014. The judgment convicted defendant, upon his plea of guilty, of criminal possession of a weapon in the second degree (two counts) and criminal possession of a weapon in the third degree (five counts).

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 two counts of criminal possession of a weapon in the second degree (Penal Law § 265.03 [3]) and five counts of criminal possession of a weapon in the third degree (§ 265.02 [1], [3], [7]), defendant contends that his statements to the police should have been suppressed as the product of an illegal arrest. Defendant requested a probable cause hearing in his omnibus motion, which County Court denied "at this point." The court advised defense counsel that, if the facts adduced at the *Huntley* hearing raised an issue regarding probable cause, the court would consider the issue at that time. Defendant, however, never renewed his request for a probable cause hearing or raised any contention with respect to probable cause at the *Huntley* hearing. Under the circumstances, we conclude that defendant has abandoned his contention (see *People v Britton*, 113 AD3d 1101, 1102, *lv denied* 22 NY3d 1154; see also *People v Linder*, 114 AD3d 1200, 1200-1201, *lv denied* 23 NY3d 1022; *People v Adams*, 90 AD3d 1508, 1509, *lv denied* 18 NY3d 954).

Entered: October 2, 2015

Frances E. Cafarell  
Clerk of the Court