

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

45

KA 13-01616

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

THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

ERIC A. EASTON, DEFENDANT-APPELLANT.

THE LEGAL AID BUREAU OF BUFFALO, INC., BUFFALO (SUSAN C. MINISTERO OF COUNSEL), FOR DEFENDANT-APPELLANT.

FRANK A. SEDITA, III, DISTRICT ATTORNEY, BUFFALO (DANIEL J. PUNCH OF COUNSEL), FOR RESPONDENT.

Appeal from a judgment of the Erie County Court (Michael L. D'Amico, J.), rendered June 18, 2013. The judgment convicted defendant, upon his plea of guilty, of reckless endangerment 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 reckless endangerment in the first degree (Penal Law § 120.25). As the People correctly concede, defendant's waiver of the right to appeal does not encompass his challenge to the severity of the negotiated sentence (*see People v Maracle*, 19 NY3d 925, 928), which runs concurrently to longer sentences imposed in other jurisdictions. Nevertheless, based on our review of the record, we perceive no basis to exercise our power to modify his sentence as a matter of discretion in the interest of justice (*see CPL 470.15 [3] [c]*).

Entered: February 5, 2016

Frances E. Cafarell
Clerk of the Court