

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

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KA 13-00120

PRESENT: CENTRA, J.P., PERADOTTO, LINDLEY, DEJOSEPH, AND SCUDDER, JJ.

THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

DANDRE R. MARTIN, DEFENDANT-APPELLANT.

THE LEGAL AID BUREAU OF BUFFALO, INC., BUFFALO (BARBARA J. DAVIES OF COUNSEL), FOR DEFENDANT-APPELLANT.

FRANK A. SEDITA, III, DISTRICT ATTORNEY, BUFFALO (MATTHEW B. POWERS OF COUNSEL), FOR RESPONDENT.

Appeal from a judgment of the Erie County Court (Kenneth F. Case, J.), rendered May 29, 2012. The judgment convicted defendant, upon his plea of guilty, of attempted robbery in the second degree (two counts).

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

Memorandum: Defendant appeals from a judgment convicting him upon his guilty plea of two counts of attempted robbery in the second degree (Penal Law §§ 110.00, 160.10 [2] [b]). Contrary to defendant's contention, he knowingly, voluntarily, and intelligently waived both his right to appeal the conviction, as well as his separate and distinct right to appeal the harshness of the sentence (*see People v Rodman*, 104 AD3d 1186, 1188, *lv denied* 22 NY3d 1202; *cf. People v Maracle*, 19 NY3d 925, 928).

Defendant contends that he was denied effective assistance of counsel at sentencing. To the extent that defendant's contention survives his plea of guilty and valid waiver of the right to appeal (*see People v Bonavito*, 121 AD3d 1499, 1500, *lv denied* 25 NY3d 988), we conclude that it is without merit (*see generally People v Ford*, 86 NY2d 397, 404). The record establishes that defendant received "an advantageous plea and nothing in the record casts doubt on the apparent effectiveness of counsel" (*Ford*, 86 NY2d at 404).

Entered: February 5, 2016

Frances E. Cafarell
Clerk of the Court