

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

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KA 15-00074

PRESENT: CENTRA, J.P., PERADOTTO, CARNI, CURRAN, AND TROUTMAN, JJ.

THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

RICHARD D. CASTERLINE, III, DEFENDANT-APPELLANT.

DAVID P. ELKOVITCH, AUBURN, FOR DEFENDANT-APPELLANT.

JON E. BUDELMANN, DISTRICT ATTORNEY, AUBURN (CHRISTOPHER T. VALDINA OF COUNSEL), FOR RESPONDENT.

Appeal from a judgment of the Cayuga County Court (Thomas G. Leone, J.), rendered November 5, 2014. The judgment convicted defendant, upon his plea of guilty, of unlawful manufacture of methamphetamine in the first degree and criminal possession of a controlled substance in the third degree.

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 unlawful manufacture of methamphetamine in the first degree (Penal Law § 220.75) and criminal possession of a controlled substance in the third degree (§ 220.16 [7]). We reject defendant's contention that he is entitled to specific performance of the original plea agreement inasmuch as he rejected that plea agreement (*see People v Anderson*, 270 AD2d 509, 510-511, *lv denied* 95 NY2d 792; *People v Johnson*, 181 AD2d 832, 832, *lv denied* 80 NY2d 833; *see generally People v McConnell*, 49 NY2d 340, 348-349; *People v Smith*, 93 AD3d 1239, 1239).

Entered: April 29, 2016

Frances E. Cafarell
Clerk of the Court