

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

1159

**KA 14-01045**

PRESENT: CARNI, J.P., LINDLEY, DEJOSEPH, CURRAN, AND TROUTMAN, JJ.

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THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

MARK HAWKINS, ALSO KNOWN AS MARCUS COLEMAN,  
DEFENDANT-APPELLANT.

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THE LEGAL AID BUREAU OF BUFFALO, INC., BUFFALO (SHERRY A. CHASE OF  
COUNSEL), FOR DEFENDANT-APPELLANT.

MICHAEL J. FLAHERTY, JR., ACTING DISTRICT ATTORNEY, BUFFALO (DANIEL J.  
PUNCH OF COUNSEL), FOR RESPONDENT.

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Appeal from a judgment of the Supreme Court, Erie County  
(Christopher J. Burns, J.), rendered May 27, 2014. The judgment  
convicted defendant, upon his plea of guilty, of criminal possession  
of a weapon 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 plea of guilty of criminal possession of a weapon in the  
third degree (Penal Law § 265.02 [3]). Defendant failed to preserve  
for our review his challenge to Supreme Court's alleged enhancement of  
his sentence at the time of sentencing inasmuch as defendant did not  
object to the alleged enhanced sentence or move to withdraw his guilty  
plea (*see People v Viele*, 124 AD3d 1222, 1223). We decline to  
exercise our power to review defendant's contention as a matter of  
discretion in the interest of justice (*see CPL 470.15 [3] [c]*). We  
reject defendant's contention that his sentence is unduly harsh and  
severe.

Entered: December 23, 2016

Frances E. Cafarell  
Clerk of the Court