

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

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**KA 14-01599**

PRESENT: CARNI, J.P., LINDLEY, NEMOYER, TROUTMAN, AND SCUDDER, JJ.

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THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

DEREK A. STORMS, DEFENDANT-APPELLANT.

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DAVISON LAW OFFICE PLLC, CANANDAIGUA (MARY P. DAVISON OF COUNSEL), FOR DEFENDANT-APPELLANT.

BROOKS T. BAKER, DISTRICT ATTORNEY, BATH (JOHN C. TUNNEY OF COUNSEL), FOR RESPONDENT.

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Appeal from a judgment of the Steuben County Court (Joseph W. Latham, J.), rendered September 4, 2013. The judgment convicted defendant, upon his plea of guilty, of attempted robbery in the second degree.

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 attempted robbery in the second degree (Penal Law §§ 110.00, 160.10 [1]), defendant contends that the orders of protection issued by County Court exceed the limits of the plea bargain and the durational requirements of CPL 530.13 (4) (A) (i) and (ii). Defendant, however, "did not object to the orders of protection at sentencing" and thus did not preserve his contentions for our review (*People v Nieves*, 2 NY3d 310, 315). We decline to exercise our power to review those contentions as a matter of discretion in the interest of justice (*see* CPL 470.15 [3] [c]; *People v Cook*, 118 AD3d 1499, 1500, *lv denied* 24 NY3d 959).

Even assuming, arguendo, that defendant's valid waiver of the right to appeal does not encompass his challenge to the severity of the sentence (*see People v Franklin*, 141 AD3d 1103, 1103, *lv denied* 28 NY3d 929; *People v Williams*, 141 AD3d 1109, 1110, *lv denied* 28 NY3d 1032), we nevertheless reject that challenge.

Entered: February 3, 2017

Frances E. Cafarell  
Clerk of the Court