

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

134

KA 13-02208

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

THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

YOSEF SIMON-PAGE, DEFENDANT-APPELLANT.

EDWARD PEKAREK, WELLSVILLE, FOR DEFENDANT-APPELLANT.

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

Appeal from a judgment of the Steuben County Court (Peter C. Bradstreet, J.), rendered June 10, 2013. The judgment convicted defendant, upon his plea of guilty, of attempted criminal possession of a controlled substance in the third 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 criminal possession of a controlled substance in the third degree (Penal Law §§ 110.00, 220.16 [1]), defendant contends that County Court erred in denying his motion to withdraw his *Alford* plea. We reject that contention. Here, the record establishes that "defendant's *Alford* plea was 'the product of a voluntary and rational choice, and the record before the court contains strong evidence of actual guilt' " (*People v Smith*, 26 AD3d 746, 747, *lv denied* 7 NY3d 763). Contrary to defendant's further contention, there is no dispute that the crime occurred in Steuben County, and nothing in the plea colloquy cast doubt on the State's power to prosecute the case (*cf. People v Harvey*, 124 AD3d 1393, 1394).

Entered: February 10, 2017

Frances E. Cafarell
Clerk of the Court