

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

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**KA 14-01913**

PRESENT: WHALEN, P.J., SMITH, CENTRA, CURRAN, AND SCUDDER, JJ.

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THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

ERICA P. RECORD, DEFENDANT-APPELLANT.

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LEANNE LAPP, PUBLIC DEFENDER, CANANDAIGUA (CARA A. WALDMAN OF COUNSEL), FOR DEFENDANT-APPELLANT.

R. MICHAEL TANTILLO, DISTRICT ATTORNEY, CANANDAIGUA (JEFFREY R. FRIESEN OF COUNSEL), FOR RESPONDENT.

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Appeal from a judgment of the Ontario County Court (Frederick G. Reed, A.J.), rendered February 7, 2014. The judgment convicted defendant, upon her plea of guilty, of burglary in the second degree and petit larceny.

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

Memorandum: Defendant appeals from a judgment convicting her upon her plea of guilty of burglary in the second degree (Penal Law § 140.25 [2]) and petit larceny (§ 155.25). The record establishes that County Court advised defendant of the maximum sentence that could be imposed upon a violation of the conditions of the guilty plea, and thus defendant's waiver of the right to appeal encompasses her contention that the enhanced sentence is unduly harsh and severe (*see People v VanDeViver*, 56 AD3d 1118, 1119, *lv denied* 11 NY3d 931, *reconsideration denied* 12 NY3d 788).

Entered: March 24, 2017

Frances E. Cafarell  
Clerk of the Court