

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

839

**KA 16-01034**

PRESENT: SMITH, J.P., CENTRA, PERADOTTO, LINDLEY, AND NEMOYER, JJ.

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THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

JERALD D. LASHER, DEFENDANT-APPELLANT.

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DAVID J. FARRUGIA, PUBLIC DEFENDER, LOCKPORT (THERESA L. PREZIOSO OF COUNSEL), FOR DEFENDANT-APPELLANT.

THEODORE A. BRENNER, DEPUTY DISTRICT ATTORNEY, LOCKPORT (THOMAS H. BRANDT OF COUNSEL), FOR RESPONDENT.

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Appeal from a judgment of the Niagara County Court (Matthew J. Murphy, III, J.), rendered May 3, 2016. The judgment convicted defendant, upon his plea of guilty, of attempted rape in the second degree and attempted sexual abuse in the first 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 rape in the second degree (Penal Law §§ 110.00, 130.30 [1]) and attempted sexual abuse in the first degree (§§ 110.00, 130.65 [1]), defendant contends that his waiver of the right to appeal does not encompass his challenge to the severity of the sentence and that the sentence is unduly harsh and severe. We reject those contentions. The plea colloquy and the written waiver of the right to appeal, which was signed and acknowledged by defendant at the time of the plea, establish that defendant knowingly, voluntarily and intelligently waived the right to appeal (*see generally People v Lopez*, 6 NY3d 248, 256). Defendant's valid waiver of the right to appeal specifically included a waiver of the right to challenge the severity of the sentence, and thus encompasses defendant's contention that the sentence imposed is unduly harsh and severe (*see id.* at 255-256; *People v Hidalgo*, 91 NY2d 733, 737; *cf. People v Maracle*, 19 NY3d 925, 928).

Entered: June 9, 2017

Frances E. Cafarell  
Clerk of the Court