

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

862

**KA 15-01679**

PRESENT: CARNI, J.P., CURRAN, TROUTMAN, WINSLOW, AND SCUDDER, JJ.

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THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

LAKUSHA M. MCMORRIS, DEFENDANT-APPELLANT.

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THE LEGAL AID BUREAU OF BUFFALO, INC., BUFFALO (CAITLIN M. CONNELLY OF COUNSEL), FOR DEFENDANT-APPELLANT.

JOSEPH V. CARDONE, DISTRICT ATTORNEY, ALBION (KATHERINE BOGAN OF COUNSEL), FOR RESPONDENT.

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Appeal from a judgment of the Orleans County Court (James P. Punch, J.), rendered August 17, 2015. The judgment convicted defendant, upon her plea of guilty, of attempted criminal sale of a controlled substance in the third degree.

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 attempted criminal sale of a controlled substance in the third degree (Penal Law §§ 110.00, 220.39 [1]). Contrary to defendant's contention, the record establishes that County Court did not conflate the waiver of the right to appeal with those rights automatically forfeited by a guilty plea (*see People v McCrea*, 140 AD3d 1655, 1655, *lv denied* 28 NY3d 933). The court " 'expressly ascertained from defendant that, as a condition of the plea, [s]he was agreeing to waive [her] right to appeal' " (*id.*), and the court expressly advised defendant that the waiver included any challenge to the severity of the sentence. Defendant is therefore foreclosed from challenging the severity of the negotiated sentence (*see People v Lopez*, 6 NY3d 248, 255-256).

Entered: June 9, 2017

Frances E. Cafarell  
Clerk of the Court