

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

912

KA 15-00007

PRESENT: CENTRA, J.P., PERADOTTO, DEJOSEPH, NEMOYER, AND TROUTMAN, JJ.

THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

RICCARDO GIULIANO, ALSO KNOWN AS GUILIANO,
DEFENDANT-APPELLANT.

TIMOTHY P. DONAHER, PUBLIC DEFENDER, ROCHESTER (JANE I. YOON OF
COUNSEL), FOR DEFENDANT-APPELLANT.

SANDRA DOORLEY, DISTRICT ATTORNEY, ROCHESTER (STEPHEN X. O'BRIEN OF
COUNSEL), FOR RESPONDENT.

Appeal from a judgment of the Monroe County Court (Melchor E. Castro, A.J.), rendered June 10, 2014. The judgment revoked defendant's sentence of probation and imposed a sentence of imprisonment.

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

Memorandum: Defendant appeals from a judgment revoking the sentence of probation previously imposed upon his conviction of failure to register and/or verify as a sex offender as a class E felony (Correction Law §§ 168-f [4]; 168-t) and sentencing him to a term of incarceration based on his admission that he violated conditions of his probation. We agree with defendant that the waiver of the right to appeal, although it encompassed the sentence of probation, does not encompass his challenge to the severity of the sentence imposed following his violations of probation (*see People v Williams*, 140 AD3d 1749, 1750, *lv denied* 28 NY3d 975; *People v Johnson*, 77 AD3d 1441, 1442, *lv denied* 15 NY3d 953). We nonetheless conclude that, in light of defendant's numerous admitted violations of probation, the maximum term of incarceration of 1½ to 4 years imposed by County Court is not unduly harsh or severe.

Entered: June 30, 2017

Frances E. Cafarell
Clerk of the Court