

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

**1452**

**KA 16-00444**

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

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THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

ANDRE D. THOMAS, DEFENDANT-APPELLANT.

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THE LEGAL AID BUREAU OF BUFFALO, INC., BUFFALO (TIMOTHY P. MURPHY OF COUNSEL), FOR DEFENDANT-APPELLANT.

JOHN J. FLYNN, DISTRICT ATTORNEY, BUFFALO (DANIEL J. PUNCH OF COUNSEL), FOR RESPONDENT.

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Appeal from a judgment of the Supreme Court, Erie County (Russell P. Buscaglia, A.J.), rendered November 30, 2015. The judgment convicted defendant, upon his plea of guilty, of criminal possession of a weapon in the second degree.

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

Memorandum: Defendant appeals from a judgment convicting him, upon his plea of guilty, of criminal possession of a weapon in the second degree (Penal Law § 265.03 [3]). Contrary to defendant's contention, his waiver of the right to appeal is valid (*see generally People v Bradshaw*, 18 NY3d 257, 264 [2011]; *People v Lopez*, 6 NY3d 248, 256 [2006]). *People v Brown* (296 AD2d 860 [4th Dept 2002], *lv denied* 98 NY2d 767 [2002]), relied on by defendant, is distinguishable. In *Brown*, we held that the plea court's "single reference to defendant's right to appeal [was] insufficient to establish that the court engage[d] the defendant in an adequate colloquy to ensure that the waiver of the right to appeal was a knowing and voluntary choice" (*id.* at 860 [emphasis added and internal quotation marks omitted]). Here, in contrast, Supreme Court provided defendant with an extensive and detailed description of the proposed waiver of the right to appeal before securing his consent thereto. Defendant's valid waiver of the right to appeal forecloses his suppression claim (*see People v Kemp*, 94 NY2d 831, 833 [1999]; *People v Scott*, 144 AD3d 1597, 1597-1598 [4th Dept 2016], *lv denied* 28 NY3d 1150 [2017]; *People v Verse*, 61 AD3d 1409, 1409 [4th Dept 2009], *lv denied* 12 NY3d 930 [2009]).

Entered: February 2, 2018

Mark W. Bennett  
Clerk of the Court