

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

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KA 17-01295

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

THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

WILLIE BOZEMAN, DEFENDANT-APPELLANT.

THOMAS J. EOANNOU, BUFFALO, FOR DEFENDANT-APPELLANT.

JOHN J. FLYNN, DISTRICT ATTORNEY, BUFFALO (JULIE BENDER FISKE OF COUNSEL), FOR RESPONDENT.

Appeal from a judgment of the Supreme Court, Erie County (Deborah A. Haendiges, J.), rendered January 12, 2015. The judgment convicted defendant, upon his plea of guilty, of attempted assault in the first 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 attempted assault in the first degree (Penal Law §§ 110.00, 120.10 [1]). Contrary to defendant's contention, the record establishes that his waiver of the right to appeal was made "knowingly, intelligently and voluntarily" (*People v Lopez*, 6 NY3d 248, 256 [2006]). Inasmuch as defendant's valid waiver encompasses both his conviction and his sentence, defendant is foreclosed from challenging the severity of his sentence on appeal (see *id.* at 255-256; *People v Hidalgo*, 91 NY2d 733, 737 [1998]; *People v Walker*, 151 AD3d 1730, 1731 [4th Dept 2017], *lv denied* 29 NY3d 1135 [2017]; *cf. People v Maracle*, 19 NY3d 925, 928 [2012]).

Entered: February 9, 2018

Mark W. Bennett
Clerk of the Court