

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

179

KA 16-01601

PRESENT: SMITH, J.P., PERADOTTO, LINDLEY, CURRAN, AND WINSLOW, JJ.

THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

DANIEL FISHER, DEFENDANT-APPELLANT.

JAMES S. KERNAN, PUBLIC DEFENDER, LYONS (CARA A. WALDMAN OF COUNSEL),
FOR DEFENDANT-APPELLANT.

CHRISTOPHER BOKELMAN, ACTING DISTRICT ATTORNEY, LYONS (BRUCE A.
ROSEKRANS OF COUNSEL), FOR RESPONDENT.

Appeal from a judgment of the Wayne County Court (Dennis M. Kehoe, J.), rendered May 24, 2016. The judgment convicted defendant upon his plea of guilty of, inter alia, burglary in the second degree and attempted burglary in the second degree (two counts).

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, inter alia, burglary in the second degree (Penal Law § 140.25 [2]) and two counts of attempted burglary in the second degree (§§ 110.00, 140.25 [2]). Defendant's contention that County Court erred in denying his request to appoint a special prosecutor was forfeited by defendant's guilty plea (*see People v McGuay*, 120 AD3d 1566, 1567 [4th Dept 2014], *lv denied* 25 NY3d 1167 [2015]). We conclude that the sentence is not unduly harsh or severe.

Entered: March 16, 2018

Mark W. Bennett
Clerk of the Court