

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

**524**

**KA 16-01490**

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

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THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

PHILIP R. AYALA, ALSO KNOWN AS PHILIP A. AYALA,  
ALSO KNOWN AS PHILIP AYALA, DEFENDANT-APPELLANT.

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THE LEGAL AID BUREAU OF BUFFALO, INC., BUFFALO (MICHAEL S. DEAL OF  
COUNSEL), FOR DEFENDANT-APPELLANT.

LAWRENCE FRIEDMAN, DISTRICT ATTORNEY, BATAVIA (MELISSA L. CIANFRINI OF  
COUNSEL), FOR RESPONDENT.

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Appeal from a judgment of the Genesee County Court (Michael F. Pietruszka, A.J.), rendered July 8, 2016. The judgment convicted defendant, upon his plea of guilty, of criminal possession 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 him upon his plea of guilty of criminal possession of a controlled substance in the third degree (Penal Law § 220.16 [1]). Contrary to defendant's contention, the record establishes that he knowingly, voluntarily and intelligently waived the right to appeal (see generally *People v Lopez*, 6 NY3d 248, 256 [2006]), and that valid waiver forecloses any challenge by defendant to the severity of the sentence (see *id.* at 255; see generally *People v Lococo*, 92 NY2d 825, 827 [1998]; *People v Hidalgo*, 91 NY2d 733, 737 [1998]).

Entered: June 8, 2018

Mark W. Bennett  
Clerk of the Court