

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

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KA 17-01639

PRESENT: WHALEN, P.J., CENTRA, LINDLEY, DEJOSEPH, AND TROUTMAN, JJ.

THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

JOHN E. CASTRO, DEFENDANT-APPELLANT.

DAVID J. FARRUGIA, PUBLIC DEFENDER, LOCKPORT (THERESA L. PREZIOSO OF COUNSEL), FOR DEFENDANT-APPELLANT.

CAROLINE A. WOJTASZEK, DISTRICT ATTORNEY, LOCKPORT (THOMAS H. BRANDT OF COUNSEL), FOR RESPONDENT.

Appeal from a judgment of the Niagara County Court (Matthew J. Murphy, III, J.), rendered June 19, 2017. The judgment convicted defendant, upon his plea of guilty, of attempted sexual abuse in the first degree.

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

Memorandum: On appeal from a judgment convicting him upon his plea of guilty of attempted sexual abuse in the first degree (Penal Law §§ 110.00, 130.65 [1]), defendant contends that his waiver of the right to appeal is invalid. We reject that contention. County Court did not conflate the right to appeal with those rights automatically forfeited upon a plea of guilty (*see generally People v Lopez*, 6 NY3d 248, 256 [2006]). Defendant's valid waiver of the right to appeal encompasses his challenge to the severity of the sentence (*see id.* at 255; *People v Lasher*, 151 AD3d 1774, 1775 [4th Dept 2017], *lv denied* 29 NY3d 1129 [2017]).

Entered: June 29, 2018

Mark W. Bennett
Clerk of the Court