

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

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KA 16-00729

PRESENT: SMITH, J.P., PERADOTTO, CARNI, NEMOYER, AND WINSLOW, JJ.

THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

GARY CURTIS, DEFENDANT-APPELLANT.

FRANK H. HISCOCK LEGAL AID SOCIETY, SYRACUSE (KRISTEN N. MCDERMOTT OF COUNSEL), FOR DEFENDANT-APPELLANT.

WILLIAM J. FITZPATRICK, DISTRICT ATTORNEY, SYRACUSE (JAMES P. MAXWELL OF COUNSEL), FOR RESPONDENT.

Appeal from a judgment of the Onondaga County Court (Thomas J. Miller, J.), rendered March 1, 2016. The judgment convicted defendant, upon his plea of guilty, of criminal sexual act 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 criminal sexual act in the first degree (Penal Law § 130.50 [4]). Contrary to defendant's contention, the record establishes that he validly waived his right to appeal (*see People v Lopez*, 6 NY3d 248, 256-257 [2006]; *see also People v Pope*, 129 AD3d 1389, 1391 [3d Dept 2015] [Devine, J., concurring]). Defendant's valid waiver of his right to appeal forecloses his challenge to the severity of his sentence (*see Lopez*, 6 NY3d at 255-256). Finally, we note that both the uniform sentence and commitment sheet and the certificate of conviction incorrectly recite that the offense was committed on January 1, 2015, and thus both must be amended to reflect the correct date of March 3, 2015 (*see generally People v Bradley*, 52 AD3d 1261, 1262 [4th Dept 2008], *lv denied* 11 NY3d 734 [2008]).

Entered: June 29, 2018

Mark W. Bennett
Clerk of the Court