

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

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KA 15-01497

PRESENT: WHALEN, P.J., CENTRA, NEMOYER, CURRAN, AND WINSLOW, JJ.

THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

JERMAINE E. POINDEXTER, DEFENDANT-APPELLANT.

TIMOTHY P. DONAHER, PUBLIC DEFENDER, ROCHESTER (JAMES A. HOBBS OF COUNSEL), FOR DEFENDANT-APPELLANT.

SANDRA DOORLEY, DISTRICT ATTORNEY, ROCHESTER (LISA GRAY OF COUNSEL), FOR RESPONDENT.

Appeal from a judgment of the Monroe County Court (Douglas A. Randall, J.), rendered June 16, 2015. 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 a plea of guilty of criminal possession of a controlled substance in the third degree (Penal Law § 220.16 [1]). We reject defendant's contention that the plea was not voluntarily, knowingly, and intelligently entered. Even assuming, arguendo, that defendant's statements triggered a duty by County Court to conduct a further inquiry to ensure that the plea was knowing and voluntary (*see People v Lopez*, 71 NY2d 662, 666 [1988]), we conclude that the court "properly conducted such an inquiry and that defendant's responses to the court's subsequent questions removed [any] doubt about [his] guilt" (*People v Vogt*, 150 AD3d 1704, 1705 [4th Dept 2017] [internal quotation marks omitted]). Defendant's remaining contention that the court abdicated its sentencing discretion to the People is without merit. The court never indicated that it was bound by the People's sentence promise (*cf. People v Farrar*, 52 NY2d 302, 305 [1981]; *People v Dupont*, 164 AD3d 1649, 1650 [4th Dept 2018]).

Entered: February 1, 2019

Mark W. Bennett
Clerk of the Court