

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

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KA 17-01634

PRESENT: WHALEN, P.J., SMITH, CARNI, NEMOYER, AND CURRAN, JJ.

THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

KOLTON F. COTTER, DEFENDANT-APPELLANT.

THE LEGAL AID BUREAU OF BUFFALO, INC., BUFFALO (CAITLIN M. CONNELLY OF COUNSEL), FOR DEFENDANT-APPELLANT.

LAWRENCE FRIEDMAN, DISTRICT ATTORNEY, BATAVIA (SHIRLEY A. GORMAN OF COUNSEL), FOR RESPONDENT.

Appeal from a judgment of the Genesee County Court (Charles N. Zambito, J.), rendered July 7, 2017. The judgment convicted defendant, upon his plea of guilty, of burglary in the second 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 burglary in the second degree (Penal Law § 140.25 [2]). Defendant validly waived his right to appeal (see *People v Sanders*, 25 NY3d 337, 342 [2015]; *People v Conley*, 161 AD3d 1486, 1487 n [3d Dept 2018]; *People v Nichols*, 155 AD3d 1186, 1187 [3d Dept 2017]), and that waiver forecloses his challenge to the severity of his sentence (see *People v Lopez*, 6 NY3d 248, 255 [2006]).

Entered: March 15, 2019

Mark W. Bennett
Clerk of the Court