

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

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KA 15-00259

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

THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

ANDRE T. MCCANTS, DEFENDANT-APPELLANT.

TIMOTHY P. DONAHER, PUBLIC DEFENDER, ROCHESTER (TIMOTHY S. DAVIS OF COUNSEL), FOR DEFENDANT-APPELLANT.

SANDRA DOORLEY, DISTRICT ATTORNEY, ROCHESTER (LEAH R. MERVINE OF COUNSEL), FOR RESPONDENT.

Appeal from a judgment of the Supreme Court, Monroe County (John B. Gallagher, Jr., A.J.), rendered October 6, 2014. The judgment convicted defendant, upon his plea of guilty, of criminal contempt 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 contempt in the first degree after he violated an existing order of protection (Penal Law § 215.51 [b] [v]). On appeal, defendant contends that the order of protection underlying his conviction was a nullity, and thus could not form the basis for his conviction of criminal contempt in the first degree. Defendant's contention regarding the validity of the underlying order of protection does not implicate Supreme Court's jurisdiction and thus does not survive his guilty plea (*see People v Konieczny*, 2 NY3d 569, 577 [2004]; *see generally People v Sampson*, 169 AD3d 1364, 1364-1365 [4th Dept 2019], *lv denied* 33 NY3d 981 [2019]).

Entered: June 14, 2019

Mark W. Bennett
Clerk of the Court