

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

680.4

KA 18-02087

PRESENT: CARNI, J.P., LINDLEY, NEMOYER, CURRAN, AND BANNISTER, JJ.

THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

EMAD AHMED, DEFENDANT-APPELLANT.

THE LEGAL AID BUREAU OF BUFFALO, INC., BUFFALO (ROBERT L. KEMP OF COUNSEL), FOR DEFENDANT-APPELLANT.

JOHN J. FLYNN, DISTRICT ATTORNEY, BUFFALO (ASHLEY R. LOWRY OF COUNSEL), FOR RESPONDENT.

Appeal from a judgment of the Erie County Court (Susan M. Eagan, J.), rendered August 29, 2018. The judgment convicted defendant, upon a plea of guilty, of attempted criminal possession of a weapon 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 attempted criminal possession of a weapon in the second degree (Penal Law §§ 110.00, 265.03 [3]). Even assuming, arguendo, that defendant's waiver of the right to appeal was invalid (*see People v Thomas*, 34 NY3d 545, 565-566 [2019], *cert denied* – US – [Mar. 30, 2020]) and thus does not preclude our review of his challenge to the severity of the sentence (*see People v Baker*, 158 AD3d 1296, 1296 [4th Dept 2018], *lv denied* 31 NY3d 1011 [2018]), we conclude that the sentence is not unduly harsh or severe.

Entered: November 13, 2020

Mark W. Bennett
Clerk of the Court