

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

71

KA 19-02354

PRESENT: CENTRA, J.P., PERADOTTO, NEMOYER, WINSLOW, AND BANNISTER, JJ.

THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

DWIGHT T. WILLIAMS, DEFENDANT-APPELLANT.

DAVID P. ELKOVITCH, AUBURN, FOR DEFENDANT-APPELLANT.

JON E. BUDELMANN, DISTRICT ATTORNEY, AUBURN (CHRISTOPHER T. VALDINA OF COUNSEL), FOR RESPONDENT.

Appeal from a judgment of the Cayuga County Court (Thomas G. Leone, J.), rendered September 12, 2019. The judgment convicted defendant, upon his plea of guilty, of criminal contempt in the first degree (two counts) and aggravated family offense.

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 aggravated family offense (Penal Law § 240.75 [1]) and two counts of criminal contempt in the first degree (§ 215.51 [c], [d]). Defendant contends that County Court erred in ordering him to pay restitution because restitution was not part of the plea agreement and the amount of restitution is not supported by the record. Defendant failed to preserve his contention for our review inasmuch as he " 'fail[ed] to object to the imposition of restitution at sentencing or to request a hearing' " (*People v Rodriguez*, 173 AD3d 1840, 1841 [4th Dept 2019], lv denied 34 NY3d 953 [2019]; see *People v Lee*, 96 AD3d 1522, 1527-1528 [4th Dept 2012]; see generally *People v Williams*, 27 NY3d 212, 219-225 [2016]). We decline to exercise our power to review that contention as a matter of discretion in the interest of justice (see CPL 470.15 [3] [c]).

Entered: February 5, 2021

Mark W. Bennett
Clerk of the Court