

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

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**KA 18-01852**

PRESENT: PERADOTTO, J.P., CARNI, NEMOYER, TROUTMAN, AND WINSLOW, JJ.

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THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

JOVON MCGLOUN, DEFENDANT-APPELLANT.

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FRANK H. HISCOCK LEGAL AID SOCIETY, SYRACUSE (J. SCOTT PORTER OF COUNSEL), FOR DEFENDANT-APPELLANT.

WILLIAM J. FITZPATRICK, DISTRICT ATTORNEY, SYRACUSE (KENNETH H. TYLER, JR., OF COUNSEL), FOR RESPONDENT.

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Appeal from a judgment of the Onondaga County Court (Thomas J. Miller, J.), rendered March 5, 2018. The judgment convicted defendant, upon a jury verdict, of murder in the second degree and 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 a jury verdict, of murder in the second degree (Penal Law § 125.25 [1]) and criminal possession of a weapon in the second degree (§ 265.03 [3]). Although the notice of appeal incorrectly states that defendant is appealing from a "plea and sentencing," we exercise our discretion to treat the appeal as taken from the judgment founded upon the jury verdict (see CPL 460.10 [6]; *People v Boldt*, 185 AD3d 1551, 1552 [4th Dept 2020], *lv denied* 35 NY3d 1093 [2020]). We now affirm.

Defendant abandoned his pretrial request for a new attorney by thereafter "repeatedly stat[ing] . . . that he was ready to proceed to trial with [existing] counsel" (*People v Avent*, 178 AD3d 1403, 1404 [4th Dept 2019], *lv denied* 35 NY3d 940 [2020]; see *People v Scott*, 172 AD3d 543, 544 [1st Dept 2019], *lv denied* 34 NY3d 954 [2019]). Defendant's present contention that County Court erred in denying his pretrial request for a new attorney is therefore waived (see *People v Jones*, 79 AD3d 1665, 1665 [4th Dept 2010]; *People v Cobb*, 72 AD3d 1565, 1567 [4th Dept 2010], *lv denied* 15 NY3d 803 [2010]; *People v Hernandez*, 62 AD3d 401, 401 [1st Dept 2009], *lv denied* 13 NY3d 797 [2009]). We reject defendant's further contention that the court erred in denying his request for a new attorney at sentencing (see *People v Bethany*, 144 AD3d 1666, 1669 [4th Dept 2016], *lv denied* 29 NY3d 996 [2017], *cert denied* – US –, 138 S Ct 1571 [2018]; *People v Johnson*, 292 AD2d 871, 871 [4th Dept 2002], *lv denied* 98 NY2d 652

[2002]).

To the extent reviewable on direct appeal, defendant's ineffective assistance of counsel claim is without merit (see *People v Linder*, 170 AD3d 1555, 1559-1560 [4th Dept 2019], *lv denied* 33 NY3d 1071 [2019]; *People v Vargas*, 72 AD3d 1114, 1119-1120 [3d Dept 2010], *lv denied* 15 NY3d 758 [2010]). Defendant's remaining contentions are unpreserved for appellate review, and we decline to exercise our power to review them as a matter of discretion in the interest of justice (see CPL 470.15 [6] [a]; *People v Lathrop*, 171 AD3d 1473, 1475 [4th Dept 2019], *lv denied* 33 NY3d 1106 [2019]; *People v Shannon*, 269 AD2d 839, 839 [4th Dept 2000]).

Entered: July 16, 2021

Mark W. Bennett  
Clerk of the Court