

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

**457**

**KA 19-00481**

PRESENT: CENTRA, 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

JOSEPH LOPEZ, DEFENDANT-APPELLANT.

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THE LEGAL AID BUREAU OF BUFFALO, INC., BUFFALO (DEBORAH K. JESSEY OF COUNSEL), FOR DEFENDANT-APPELLANT.

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

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Appeal from a judgment of the Supreme Court, Erie County (Christopher J. Burns, J.), rendered August 14, 2018. The judgment convicted defendant, upon a plea of guilty, of attempted course of sexual conduct against a child in the first degree (two counts).

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 two counts of attempted course of sexual conduct against a child in the first degree (Penal Law §§ 110.00, 130.75 [1] [a]). We affirm.

Even assuming, *arguendo*, that defendant's waiver of the right to appeal is invalid (*see generally People v Goins*, 191 AD3d 1399, 1399 [4th Dept 2021], *lv denied* 36 NY3d 1120 [2021]), we reject defendant's contention that Supreme Court erred in refusing to suppress certain statements that defendant made to the police (*see People v Crane*, 87 AD3d 1386, 1387 [4th Dept 2011], *lv denied* 17 NY3d 952 [2011]).

We also reject defendant's contention that the court abused its discretion in refusing to grant him youthful offender status (*see People v Simpson*, 182 AD3d 1046, 1047 [4th Dept 2020], *lv denied* 35 NY3d 1049 [2020]). Additionally, having reviewed the applicable factors pertinent to a youthful offender adjudication (*see People v Keith B.J.*, 158 AD3d 1160, 1160 [4th Dept 2018]), we decline to exercise our interest of justice jurisdiction to grant him such status (*see Simpson*, 182 AD3d at 1047). Finally, the sentence is not unduly harsh or severe.

Entered: July 16, 2021

Mark W. Bennett  
Clerk of the Court