

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

**498**

**KA 18-00163**

PRESENT: WHALEN, P.J., CENTRA, NEMOYER, TROUTMAN, AND WINSLOW, JJ.

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THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

JOSEPH T. BARTHEL, DEFENDANT-APPELLANT.  
(APPEAL NO. 2.)

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BRIDGET L. FIELD, ROCHESTER, FOR DEFENDANT-APPELLANT.

SANDRA DOORLEY, DISTRICT ATTORNEY, ROCHESTER (DANIEL GROSS OF  
COUNSEL), FOR RESPONDENT.

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Appeal from a judgment of the Supreme Court, Monroe County (Alex R. Renzi, J.), rendered October 19, 2016. The judgment convicted defendant, upon a plea of guilty, of burglary 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 burglary in the second degree (Penal Law § 140.25 [2]). We affirm. The sentence is not unduly harsh or severe. Defendant's challenge to the purported restitution order is unpreserved for appellate review, and we decline to exercise our power to review it as a matter of discretion in the interest of justice (see *People v Schmiede*, 172 AD3d 1897, 1898 [4th Dept 2019]).

Entered: August 26, 2021

Mark W. Bennett  
Clerk of the Court