

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

794

KA 17-00006

PRESENT: CENTRA, J.P., LINDLEY, TROUTMAN, BANNISTER, AND DEJOSEPH, JJ.

THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

JOHN OSBORN, DEFENDANT-APPELLANT.
(APPEAL NO. 3.)

FRANK H. HISCOCK LEGAL AID SOCIETY, SYRACUSE (PHILIP ROTHSCHILD OF COUNSEL), FOR DEFENDANT-APPELLANT.

JOHN OSBORN, DEFENDANT-APPELLANT PRO SE.

WILLIAM J. FITZPATRICK, DISTRICT ATTORNEY, SYRACUSE (DARIENN P. BALIN OF COUNSEL), FOR RESPONDENT.

Appeal from a judgment of the Onondaga County Court (Joseph E. Fahey, J.), rendered December 22, 2015. The judgment convicted defendant upon his plea of guilty of criminal tax fraud in the third degree and criminal tax fraud in the fourth 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 criminal tax fraud in the third degree (Tax Law § 1804) and two counts of criminal tax fraud in the fourth degree (§ 1803). Contrary to defendant's contention in his main and pro se supplemental briefs, the sentence is not unduly harsh or severe. We have considered the remaining contentions in defendant's pro se supplemental brief and conclude that none warrants reversal or modification of the judgment. We note, however, that the certificate of conviction incorrectly reflects that defendant was convicted of two counts of criminal tax fraud in the fourth degree under Tax Law § 1804, and it therefore must be amended to reflect that he was convicted of those counts under Tax Law § 1803 (*see People v Martinez*, 37 AD3d 1099, 1100 [4th Dept 2007], *lv denied* 8 NY3d 947 [2007]).

Entered: October 8, 2021

Ann Dillon Flynn
Clerk of the Court