

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

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**KA 19-01120**

PRESENT: WHALEN, P.J., SMITH, NEMOYER, AND CURRAN, JJ.

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THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

BRYAN L. LEE, DEFENDANT-APPELLANT.

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TIMOTHY J. BRENNAN, AUBURN, FOR DEFENDANT-APPELLANT.

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

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Appeal from a judgment of the Cayuga County Court (Mark H. Fandrich, A.J.), rendered May 14, 2019. The appeal was held by this Court by order entered November 13, 2020, decision was reserved, and the matter was remitted to Cayuga County Court for further proceedings (188 AD3d 1685 [4th Dept 2020]).

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 attempted assault in the first degree (Penal Law §§ 110.00, 120.10 [1]). When the appeal was previously before us, we held the case, reserved decision, and remitted the matter to County Court "for the assignment of new counsel and a de novo determination of defendant's motion and request to withdraw the guilty plea" (*People v Lee*, 188 AD3d 1685, 1686 [4th Dept 2020]). Upon remittal, new counsel was assigned, but defendant then withdrew his motion and request to withdraw the plea. We now affirm.

Contrary to defendant's contention, the agreed-upon sentence is not unduly harsh or severe.

Entered: March 11, 2022

Ann Dillon Flynn  
Clerk of the Court