

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

222

KA 20-01684

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

THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

BRADLEY ZADUL, DEFENDANT-APPELLANT.

J. SCOTT PORTER, SENECA FALLS, FOR DEFENDANT-APPELLANT.

TODD J. CASELLA, DISTRICT ATTORNEY, PENN YAN, FOR RESPONDENT.

Appeal from a judgment of the Yates County Court (Jason L. Cook, J.), rendered October 20, 2020. The judgment convicted defendant upon a plea of guilty of 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 his plea of guilty of criminal possession of a weapon in the second degree (Penal Law § 265.03 [3]). To the extent that defendant's contentions are not forfeited by his plea of guilty (see *People v Leary*, 70 AD3d 1394, 1395 [4th Dept 2010], *lv denied* 14 NY3d 889 [2010]; *People v Jimenez*, 277 AD2d 956, 956 [4th Dept 2000], *lv denied* 96 NY2d 784 [2001]), our review of them is precluded by defendant's valid waiver of the right to appeal (see *People v Richardson*, 173 AD3d 1859, 1860 [4th Dept 2019], *lv denied* 34 NY3d 953 [2019], *reconsideration denied* 34 NY3d 1081 [2019]; *People v Caldwell*, 71 AD3d 1515, 1515-1516 [4th Dept 2010], *lv denied* 15 NY3d 772 [2010]; *People v Oliveri*, 49 AD3d 1208, 1209 [4th Dept 2008]; *People v Vega*, 24 AD3d 1260, 1260 [4th Dept 2005], *lv denied* 7 NY3d 764 [2006]). We note only that the uniform sentence and commitment form erroneously reflects that defendant was convicted of criminal possession of a weapon in the second degree under Penal Law § 265.03 (2) and must be amended to reflect that he was convicted under Penal Law § 265.03 (3) (see *People v Ealahan*, 198 AD3d 1376, 1377 [4th Dept 2021], *lv denied* 37 NY3d 1096 [2021]).

Entered: March 11, 2022

Ann Dillon Flynn
Clerk of the Court