

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

47

KA 21-01285

PRESENT: WHALEN, P.J., PERADOTTO, LINDLEY, MONTOUR, AND OGDEN, JJ.

THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

MICHAEL G. GORTON, DEFENDANT-APPELLANT.

HAYDEN M. DADD, CONFLICT DEFENDER, GENESEO (BRADLEY E. KEEM OF COUNSEL), FOR DEFENDANT-APPELLANT.

GREGORY J. MCCAFFREY, DISTRICT ATTORNEY, GENESEO (JOSHUA J. TONRA OF COUNSEL), FOR RESPONDENT.

Appeal from a judgment of the Livingston County Court (Jennifer M. Noto, J.), rendered August 12, 2021. The judgment revoked defendant's sentence of probation and imposed a sentence of imprisonment.

It is hereby ORDERED that the judgment so appealed from is unanimously affirmed.

Memorandum: Defendant appeals from a judgment revoking the sentence of probation previously imposed upon his conviction of attempted robbery in the second degree (Penal Law §§ 110.00, 160.10 [2] [a]) and imposing a determinate term of imprisonment, followed by a period of postrelease supervision. Contrary to defendant's contention, the sentence is not unduly harsh or severe. We note, however, that the uniform sentence and commitment form erroneously reflects that defendant was convicted of robbery in the second degree, and it therefore must be corrected to reflect that defendant was convicted of attempted robbery in the second degree.

Entered: February 3, 2023

Ann Dillon Flynn
Clerk of the Court