

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

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**KA 22-01931**

PRESENT: LINDLEY, J.P., CURRAN, BANNISTER, GREENWOOD, AND NOWAK, JJ.

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THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

MICHAEL J. LACEY, DEFENDANT-APPELLANT.

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LEANNE LAPP, PUBLIC DEFENDER, CANANDAIGUA (BRADLEY E. KEEM OF COUNSEL), FOR DEFENDANT-APPELLANT.

JAMES B. RITTS, DISTRICT ATTORNEY, CANANDAIGUA (V. CHRISTOPHER EAGGLESTON OF COUNSEL), FOR RESPONDENT.

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Appeal from a judgment of the Ontario County Court (Brian D. Dennis, J.), rendered December 6, 2022. The judgment convicted defendant upon his plea of guilty of identity theft in the first degree (two counts), identity theft in the second degree and criminal possession of stolen property in the fourth degree (three 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 two counts of identity theft in the first degree (Penal Law § 190.80 [1]), one count of identity theft in the second degree (§ 190.79 [1]), and three counts of criminal possession of stolen property in the fourth degree (§ 165.45 [2]). By pleading guilty, defendant forfeited his challenge to County Court's *Molineux* ruling (see *People v Johnson*, 195 AD3d 1420, 1421 [4th Dept 2021], *lv denied* 37 NY3d 1146 [2021]; *People v Pierce*, 142 AD3d 1341, 1341 [4th Dept 2016], *lv denied* 28 NY3d 1149 [2017]; *People v Johnson*, 104 AD3d 705, 706 [2d Dept 2013]). Defendant further contends that the guilty plea was improperly entered because he gave monosyllabic, perfunctory responses to the court's questions during the plea colloquy and because statements he made at sentencing negated his guilt and thus warranted further inquiry by the court. That contention is not preserved for our review inasmuch as defendant did not move to withdraw the plea or to vacate the judgment of conviction (see *People v Brown*, 204 AD3d 1519, 1519 [4th Dept 2022], *lv denied* 38 NY3d 1069 [2022]; *People v Brinson*, 192 AD3d 1559, 1559-1560 [4th Dept 2021]; *People v Rathburn*, 178 AD3d 1421, 1421 [4th Dept 2019], *lv denied* 35 NY3d 944 [2020]). In any event, a defendant's monosyllabic responses to a court's questions do not render a plea invalid (see *People v Adams*, 201 AD3d 1311, 1313 [4th Dept 2022], *lv denied* 38 NY3d 1007 [2022]; *Brinson*, 192 AD3d at 1560; *Rathburn*, 178 AD3d at 1421-1422).

With respect to the statements defendant made at sentencing, we note that "a trial court has no duty, in the absence of a motion to withdraw a guilty plea, to conduct a further inquiry concerning the plea's voluntariness 'based upon comments made by [the] defendant during . . . sentencing' " (*Brown*, 204 AD3d at 1519; see *People v Mobayed*, 158 AD3d 1221, 1223 [4th Dept 2018], *lv denied* 31 NY3d 1015 [2018]). Moreover, defendant said nothing at sentencing that called into doubt the voluntariness of his plea (see generally *People v Lopez*, 71 NY2d 662, 666 [1988]).

Finally, we reject defendant's contention that the sentence is unduly harsh and severe.