

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

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KA 14-01771

PRESENT: CENTRA, J.P., PERADOTTO, NEMOYER, TROUTMAN, AND WINSLOW, JJ.

THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

SARAH A. MURPHY SEARS, DEFENDANT-APPELLANT.

D.J. & J.A. CIRANDO, ESQS., SYRACUSE (BRADLEY E. KEEM OF COUNSEL), FOR DEFENDANT-APPELLANT.

BROOKS T. BAKER, DISTRICT ATTORNEY, BATH (JOHN C. TUNNEY OF COUNSEL), FOR RESPONDENT.

Appeal from a judgment of the Steuben County Court (Marianne Furfure, A.J.), rendered April 29, 2014. The judgment convicted defendant, upon her plea of guilty, of attempted assault in the second degree.

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

Memorandum: Defendant appeals from a judgment convicting her, upon her plea of guilty, of attempted assault in the second degree (Penal Law §§ 110.00, 120.05 [2]). Contrary to her contention, the record demonstrates that defendant validly waived her right to appeal (*see generally People v Lopez*, 6 NY3d 248, 255-256 [2006]). Defendant's valid waiver of her right to appeal forecloses her challenge to the severity of her sentence (*see id.* at 256). Although defendant's challenges to her *Alford* plea are not foreclosed by her waiver of the right to appeal, she failed to preserve those challenges for our review (*see People v Elliott*, 107 AD3d 1466, 1466 [4th Dept 2013], *lv denied* 22 NY3d 996 [2013]). We decline to exercise our power to review those challenges as a matter of discretion in the interest of justice (*see CPL 470.15 [3] [c]*).

Entered: February 9, 2018

Mark W. Bennett
Clerk of the Court