

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

1188

KA 17-01152

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

THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

JASON M. MEDEN, DEFENDANT-APPELLANT.

DAVID J. FARRUGIA, PUBLIC DEFENDER, LOCKPORT (THERESA L. PREZIOSO OF COUNSEL), FOR DEFENDANT-APPELLANT.

CAROLINE A. WOJTASZEK, DISTRICT ATTORNEY, LOCKPORT (THOMAS H. BRANDT OF COUNSEL), FOR RESPONDENT.

Appeal from a judgment of the Niagara County Court (Matthew J. Murphy, III, J.), rendered May 5, 2017. The judgment convicted defendant, upon his plea of guilty, of failure to register as a sex offender.

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

Memorandum: On appeal from a judgment convicting him upon his plea of guilty of failure to register as a sex offender (Correction Law §§ 168-f [4]; 168-t), defendant contends that his waiver of the right to appeal is invalid. We reject that contention (*see generally People v Calvi*, 89 NY2d 868, 871 [1996]). Defendant's valid waiver of the right to appeal does not encompass his challenge to the severity of the sentence, however, "because the record establishes that defendant waived his right to appeal before County Court advised him of the potential periods of imprisonment that could be imposed" (*People v Mingo*, 38 AD3d 1270, 1271 [4th Dept 2007]; *see People v Fraisar*, 151 AD3d 1757, 1757 [4th Dept 2017], *lv denied* 29 NY3d 1127 [2017]; *see generally People v Lococo*, 92 NY2d 825, 827 [1998]). Nevertheless, we conclude that the sentence is not unduly harsh or severe.

Entered: November 9, 2018

Mark W. Bennett
Clerk of the Court