

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

926

KA 17-01694

PRESENT: CENTRA, J.P., LINDLEY, CURRAN, TROUTMAN, AND DEJOSEPH, JJ.

THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

LEONARD E. HAHN, IV, ALSO KNOWN AS LEONARD E.
HAHN, JR., ALSO KNOWN AS LEONARD HAHN, IV,
DEFENDANT-APPELLANT.

THE LEGAL AID BUREAU OF BUFFALO, INC., BUFFALO (JOHN J. MORRISSEY OF
COUNSEL), FOR DEFENDANT-APPELLANT.

LAWRENCE FRIEDMAN, DISTRICT ATTORNEY, BATAVIA (ROBERT J. SHOEMAKER OF
COUNSEL), FOR RESPONDENT.

Appeal from a judgment of the Genesee County Court (Charles N. Zambito, J.), rendered May 12, 2017. The judgment convicted defendant, upon his plea of guilty, of rape in the first 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 rape in the first degree (Penal Law § 130.35 [3]). Even assuming, arguendo, that defendant's waiver of the right to appeal is invalid and thus does not preclude his challenges to the youthful offender determination or to the severity of the sentence (*see People v Wilson*, 197 AD3d 1006, 1007 [4th Dept 2021]; *People v Kingdollar*, 196 AD3d 1146, 1147 [4th Dept 2021]), we conclude that defendant's challenges are without merit. County Court did not abuse its discretion in refusing to afford defendant youthful offender status (*see People v Spencer*, 197 AD3d 1004, 1005 [4th Dept 2021]; *People v Koons*, 187 AD3d 1638, 1638 [4th Dept 2020]) and we decline to exercise our discretion in the interest of justice to grant him that status (*see Spencer*, 197 AD3d at 1005). Further, the sentence is not unduly harsh or severe.

Entered: November 19, 2021

Ann Dillon Flynn
Clerk of the Court