

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

72

KA 20-00393

PRESENT: WHALEN, P.J., SMITH, CURRAN, BANNISTER, AND OGDEN, JJ.

THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

JASON F. GILIFORTE, DEFENDANT-APPELLANT.
(APPEAL NO. 1.)

LEANNE LAPP, PUBLIC DEFENDER, CANANDAIGUA, THE LEGAL AID BUREAU OF BUFFALO, INC., BUFFALO (LEAH N. FARWELL OF COUNSEL), FOR DEFENDANT-APPELLANT.

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

Appeal from a judgment of the Ontario County Court (Frederick G. Reed, A.J.), rendered November 15, 2019. The judgment convicted defendant upon a plea of guilty of aggravated family offense (two counts) and stalking in the fourth degree (two counts).

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

Memorandum: In appeal No. 1, defendant appeals from a judgment convicting him upon his plea of guilty of two counts of aggravated family offense (Penal Law § 240.75) and two counts of stalking in the fourth degree (§ 120.45 [1]). In appeal No. 2, he appeals from a judgment revoking the sentence of probation previously imposed upon his conviction of attempted burglary in the second degree (§§ 110.00, 140.25 [2]) and imposing a sentence of imprisonment. We reject defendant's contention in each appeal that the sentence imposed is unduly harsh and severe.

With respect to appeal No. 1, we note that the certificate of conviction and uniform sentence and commitment form incorrectly indicate that defendant was sentenced as a second violent felony offender, and they must be amended to reflect that he was sentenced as a second felony offender (*see generally People v Fox*, 204 AD3d 1452, 1454 [4th Dept 2022], *lv denied* 39 NY3d 940 [2022]); *People v Bradley*, 196 AD3d 1168, 1170-1171 [4th Dept 2021]).

Entered: March 17, 2023

Ann Dillon Flynn
Clerk of the Court