

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

1028

KA 22-00074

PRESENT: WHALEN, P.J., LINDLEY, MONTOUR, OGDEN, AND DELCONTE, JJ.

THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

KENO RAMSAY, DEFENDANT-APPELLANT.

THOMAS L. PELYCH, HORNELL, FOR DEFENDANT-APPELLANT.

BRITTANY GROME ANTONACCI, DISTRICT ATTORNEY, AUBURN (CHRISTOPHER T. VALDINA OF COUNSEL), FOR RESPONDENT.

Appeal from a judgment of the Cayuga County Court (Thomas G. Leone, J.), rendered June 8, 2021. The judgment convicted defendant upon his plea of guilty of promoting prison contraband in the first degree.

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 promoting prison contraband in the first degree (Penal Law § 205.25 [2]), defendant contends that his plea was not knowing, intelligent and voluntary because County Court failed to advise him that he could be subject to deportation if he pleaded guilty (*see People v Peque*, 22 NY3d 168, 197 [2013], *cert denied* 574 US 840 [2014]) and due to his alleged mental illness. We conclude that defendant's contentions are not preserved for our review (*see People v Reyes*, 219 AD3d 1685, 1686 [4th Dept 2023]; *People v Smith*, 198 AD3d 1347, 1348 [4th Dept 2021]). Under the circumstances of this case, the narrow exception to the preservation doctrine does not apply (*see Reyes*, 219 AD3d at 1686; *Smith*, 198 AD3d at 1347; *People v Ramirez*, 180 AD3d 1378, 1379 [4th Dept 2020], *lv denied* 35 NY3d 973 [2020]; *cf. Peque*, 22 NY3d at 182-183).

Finally, the sentence is not unduly harsh or severe.

Entered: February 2, 2024

Ann Dillon Flynn
Clerk of the Court