

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

889

KA 19-01490

PRESENT: SMITH, J.P., BANNISTER, MONTOUR, GREENWOOD, AND KEANE, JJ.

THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

SHAKEEM L. COLBERT, DEFENDANT-APPELLANT.

JULIE CIANCA, PUBLIC DEFENDER, ROCHESTER (BRIAN SHIFFRIN OF COUNSEL),
FOR DEFENDANT-APPELLANT.

SANDRA DOORLEY, DISTRICT ATTORNEY, ROCHESTER (LISA GRAY OF COUNSEL),
FOR RESPONDENT.

Appeal from a judgment of the Supreme Court, Monroe County (Charles A. Schiano, Jr., J.), rendered June 17, 2019. The judgment convicted defendant upon a plea of guilty of criminal possession of a weapon in the second degree and resisting arrest.

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 criminal possession of a weapon in the second degree (Penal Law § 265.03 [3]) and resisting arrest (§ 205.30). Relying on *New York State Rifle & Pistol Assn., Inc. v Bruen* (597 US 1 [2022]), defendant contends that his conviction of criminal possession of a weapon in the second degree is unconstitutional. Defendant failed to preserve that contention for our review (see *People v Cabrera*, 41 NY3d 35, 39 [2023]; *People v David*, 41 NY3d 90, 95-96 [2023]; *People v Bell*, 229 AD3d 1178, 1179 [4th Dept 2024], *lv denied* 42 NY3d 1018 [2024]), and we decline to exercise our power to review that contention as a matter of discretion in the interest of justice (see CPL 470.15 [3] [c]; *Bell*, 229 AD3d at 1179; *People v Ocasio*, 222 AD3d 1364, 1365 [4th Dept 2023]).

Entered: December 20, 2024

Ann Dillon Flynn
Clerk of the Court