

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

103

KA 06-03543

PRESENT: SCUDDER, P.J., HURLBUTT, MARTOCHE, GREEN, AND GORSKI, JJ.

THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

TYRONE CANNON, DEFENDANT-APPELLANT.

FRANK H. HISCOCK LEGAL AID SOCIETY, SYRACUSE (SHIRLEY K. DUFFY OF COUNSEL), FOR DEFENDANT-APPELLANT.

WILLIAM J. FITZPATRICK, DISTRICT ATTORNEY, SYRACUSE (MATTHEW H. JAMES OF COUNSEL), FOR RESPONDENT.

Appeal from a judgment of the Onondaga County Court (Anthony F. Aloi, J.), rendered May 20, 2005. The judgment convicted defendant, upon his plea of guilty, of robbery 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 robbery in the first degree (Penal Law § 160.15 [4]). By failing to move to withdraw his plea or to vacate the judgment of conviction, defendant failed to preserve for our review his contention that his plea was not knowing, voluntary and intelligent (*see People v Vandeviver*, 56 AD3d 1118). In any event, that contention is belied by the record. The further contention of defendant with respect to his purported waiver of the right to appeal is also without merit inasmuch as the record establishes that defendant did not waive his right to appeal. Finally, the sentence is not unduly harsh or severe.

Entered: February 6, 2009

JoAnn M. Wahl
Clerk of the Court