

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

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KA 06-02819

PRESENT: SCUDDER, P.J., HURLBUTT, PERADOTTO, AND GORSKI, JJ.

THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

BOBBY M. COWARD, DEFENDANT-APPELLANT.

FRANK H. HISCOCK LEGAL AID SOCIETY, SYRACUSE (GERALD T. BARTH OF COUNSEL), FOR DEFENDANT-APPELLANT.

WILLIAM J. FITZPATRICK, DISTRICT ATTORNEY, SYRACUSE (JAMES P. MAXWELL OF COUNSEL), FOR RESPONDENT.

Appeal from a judgment of the Onondaga County Court (Anthony F. Aloia, J.), rendered July 10, 2006. The judgment convicted defendant, upon his plea of guilty, of attempted murder in the second 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 attempted murder in the second degree (Penal Law §§ 110.00, 125.25 [1]), defendant challenges the sufficiency of factual allegations in the indictment on the ground that they failed to state a crime. Even assuming, arguendo, that defendant's challenge is jurisdictional in nature and thus is properly before us, i.e., that it is "a nonwaivable jurisdictional prerequisite to a criminal prosecution" (*People v Mitchell*, 10 NY3d 819, 820; see *People v Iannone*, 45 NY2d 589, 600-601), we conclude that the count to which defendant pleaded guilty provided him "with fair notice of the nature of the charge[] against him and the time and place of the conduct, so as to enable him to prepare an adequate defense" (*People v Watt*, 192 AD2d 65, 67-68, *affd* 84 NY2d 948; see *Iannone*, 45 NY2d at 594).

Entered: February 6, 2009

JoAnn M. Wahl
Clerk of the Court