

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

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**KA 07-00151**

PRESENT: HURLBUTT, J.P., MARTOCHE, SMITH, CENTRA, AND PERADOTTO, JJ.

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THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

KIMBERLY K. BROOKS, DEFENDANT-APPELLANT.

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STEPHEN BIRD, ROCHESTER, FOR DEFENDANT-APPELLANT.

DONALD H. DODD, DISTRICT ATTORNEY, OSWEGO (MICHAEL G. CIANFARANO OF COUNSEL), FOR RESPONDENT.

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Appeal from a judgment of the Oswego County Court (Walter W. Hafner, Jr., J.), rendered September 11, 2006. The judgment convicted defendant, upon her plea of guilty, of grand larceny in the fourth degree.

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

Memorandum: Defendant appeals from a judgment convicting her upon her plea of guilty of grand larceny in the fourth degree (Penal Law § 155.30 [1]). Defendant failed to preserve for our review her contention that County Court erred in imposing an enhanced sentence based upon her failure to appear for sentencing (*see People v Perkins*, 291 AD2d 925, *lv denied* 98 NY2d 654; *People v Perry*, 252 AD2d 990, *lv denied* 92 NY2d 929), 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 [6] [a]).

Entered: February 6, 2009

JoAnn M. Wahl  
Clerk of the Court