

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

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**KA 07-00825**

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

MATTHEW MOORE, DEFENDANT-APPELLANT.

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TIMOTHY P. DONAHER, PUBLIC DEFENDER, ROCHESTER (KIMBERLY F. DUGUAY OF COUNSEL), FOR DEFENDANT-APPELLANT.

MICHAEL C. GREEN, DISTRICT ATTORNEY, ROCHESTER (STEPHEN X. O'BRIEN OF COUNSEL), FOR RESPONDENT.

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Appeal from a judgment of the Monroe County Court (Frank P. Geraci, Jr., J.), rendered June 29, 2005. The judgment convicted defendant, upon his plea of guilty, of robbery in the second 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 second degree (Penal Law § 160.10 [1]). Contrary to defendant's contention, County Court was not obligated to address the issue of youthful offender treatment at sentencing. The record establishes that defendant agreed to an enhanced sentence that did not include youthful offender treatment, in full satisfaction of new charges arising between the time of his plea and sentencing (*see People v Hopper*, 39 AD3d 1030, 1031; *see also People v Wise*, 29 AD3d 1216, *lv denied* 7 NY3d 852; *People v Sharlow*, 12 AD3d 724, 726, *lv denied* 4 NY3d 748). The enhanced sentence is not unduly harsh or severe.

Entered: February 6, 2009

JoAnn M. Wahl  
Clerk of the Court