

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

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KA 08-01262

PRESENT: MARTOCHE, J.P., FAHEY, GREEN, PINE, AND GORSKI, JJ.

THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

BRIAN ROBINSON, DEFENDANT-APPELLANT.

THE LEGAL AID BUREAU OF BUFFALO, INC., BUFFALO (KRISTIN M. PREVE OF COUNSEL), FOR DEFENDANT-APPELLANT.

FRANK J. CLARK, DISTRICT ATTORNEY, BUFFALO (MATTHEW B. POWERS OF COUNSEL), FOR RESPONDENT.

Appeal from a judgment of the Erie County Court (Shirley Troutman, J.), rendered February 6, 2008. The judgment revoked defendant's sentence of probation and imposed consecutive terms of incarceration.

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

Memorandum: Defendant appeals from a judgment that revoked his sentence of probation and imposed consecutive terms of incarceration. The contention of defendant with respect to the original judgment from which no appeal was taken, i.e., that the superior court information was jurisdictionally defective, therefore is not properly before us on this appeal from the subsequent judgment revoking the sentence of probation (*see generally People v Coble*, 17 AD3d 1165, *lv denied* 5 NY3d 787). That contention is, in any event, without merit (*see People v Rossi*, 5 NY2d 396, 400-401; *People v Tighe*, 2 AD3d 1364, 1365, *lv denied* 2 NY3d 747). Contrary to defendant's further contention, the sentence is not unduly harsh or severe.

Entered: February 6, 2009

JoAnn M. Wahl
Clerk of the Court