

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

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KA 08-00381

PRESENT: HURLBUTT, J.P., MARTOCHE, CARNI, GREEN, AND PINE, JJ.

THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

DEVON JONES, DEFENDANT-APPELLANT.

THE LEGAL AID BUREAU OF BUFFALO, INC., BUFFALO (BARBARA J. DAVIES OF COUNSEL), FOR DEFENDANT-APPELLANT.

FRANK A. SEDITA, III, DISTRICT ATTORNEY, BUFFALO (J. MICHAEL MARION OF COUNSEL), FOR RESPONDENT.

Appeal from a judgment of the Erie County Court (Michael F. Pietruszka, J.), rendered February 14, 2008. 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: On appeal from a judgment convicting him upon his plea of guilty of robbery in the first degree (Penal Law § 160.15 [2]), defendant contends that his waiver of the right to appeal was not knowingly, intelligently and voluntarily entered. We reject that contention. "Defendant's responses to County Court's questions unequivocally established that defendant understood the proceedings and was voluntarily waiving the right to appeal" (*People v Gilbert*, 17 AD3d 1164, 1164, lv denied 5 NY3d 762; see *People v Lopez*, 6 NY3d 248, 256). The valid waiver by defendant of the right to appeal encompasses his challenge to the court's denial of his request for youthful offender status (see *People v Porter*, 55 AD3d 1313, lv denied 11 NY3d 899; *People v Kearns*, 50 AD3d 1514, lv denied 11 NY3d 790; *People v Williams*, 38 AD3d 1232, lv denied 8 NY3d 992, 9 NY3d 927), as well as his challenge to the severity of the bargained-for sentence (see *Lopez*, 6 NY3d at 255-256; *People v Washington*, 53 AD3d 1120, lv denied 11 NY3d 796; *People v Williams*, 49 AD3d 1280).

Entered: March 20, 2009

JoAnn M. Wahl
Clerk of the Court