

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

1560

KA 08-02229

PRESENT: CENTRA, J.P., PERADOTTO, GREEN, AND PINE, JJ.

THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

RICKY L. PREDMORE, JR., DEFENDANT-APPELLANT.

CHARLES A. MARANGOLA, MORAVIA, FOR DEFENDANT-APPELLANT.

JON E. BUDELMANN, DISTRICT ATTORNEY, AUBURN (BRIAN N. BAUERSFELD OF COUNSEL), FOR RESPONDENT.

Appeal from a judgment of the Cayuga County Court (Thomas G. Leone, J.), rendered August 7, 2008. The judgment convicted defendant, upon his plea of guilty, of grand larceny 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 grand larceny in the second degree (Penal Law § 155.40 [1]), defendant contends that County Court violated the plea agreement by ordering him to pay restitution. Defendant failed to preserve that contention for our review by failing to object to the imposition of restitution (*see generally People v Lovett*, 8 AD3d 1007, *lv denied* 3 NY3d 673, 677). Defendant also failed to preserve for our review his further contention that the court improperly imposed an enhanced sentence by ordering him to pay restitution inasmuch as he failed "to object to the enhanced sentence or to move to withdraw the plea on that ground" (*id.* at 1008). We decline to exercise our power to review those contentions as a matter of discretion in the interest of justice (*see CPL 470.15 [6] [a]*). The sentence is not unduly harsh or severe.

Entered: December 30, 2009

Patricia L. Morgan
Clerk of the Court