

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

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KA 08-02247

PRESENT: SCUDDER, P.J., CENTRA, FAHEY, AND GREEN, JJ.

THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

TARSHAWN THOMPSON, DEFENDANT-APPELLANT.

THE LEGAL AID BUREAU OF BUFFALO, INC., BUFFALO (ROBERT L. KEMP OF COUNSEL), FOR DEFENDANT-APPELLANT.

FRANK A. SEDITA, III, DISTRICT ATTORNEY, BUFFALO (MATTHEW B. POWERS OF COUNSEL), FOR RESPONDENT.

Appeal from a judgment of the Supreme Court, Erie County (Christopher J. Burns, J.), rendered April 16, 2008. The judgment convicted defendant, upon his plea of guilty, of assault 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 assault in the first degree (Penal Law § 120.10 [1]), defendant contends that his waiver of the right to appeal was invalid because Supreme Court failed to elicit from him, in his own words, his understanding of the waiver and its consequences. We reject that contention (see *People v Ludlow*, 42 AD3d 941; *People v Brown [Sean]*, 41 AD3d 1234, lv denied 9 NY3d 873). " '[T]here is no requirement that the . . . court engage in any particular litany' when accepting a defendant's waiver of the right to appeal" (*Ludlow*, 42 AD3d at 942, quoting *People v Callahan*, 80 NY2d 273, 283). The valid waiver by defendant of the right to appeal encompasses his challenge to the court's suppression ruling (see *People v Kemp*, 94 NY2d 831, 833; *People v Grimes*, 53 AD3d 1055, 1056, lv denied 11 NY3d 789; *People v Gilbert*, 17 AD3d 1164, lv denied 5 NY3d 762).

Entered: February 11, 2010

Patricia L. Morgan
Clerk of the Court