

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

1548

KA 04-02941

PRESENT: SCUDDER, P.J., SMITH, GREEN, PINE, AND GORSKI, JJ.

THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

HOWARD HARRIS, DEFENDANT-APPELLANT.

KRISTIN F. SPLAIN, CONFLICT DEFENDER, ROCHESTER (ANNEMARIE DILS OF COUNSEL), FOR DEFENDANT-APPELLANT.

MICHAEL C. GREEN, DISTRICT ATTORNEY, ROCHESTER (JOSEPH D. WALDORF OF COUNSEL), FOR RESPONDENT.

Appeal from a judgment of the Monroe County Court (Richard A. Keenan, J.), rendered July 9, 2004. The judgment convicted defendant, upon a jury verdict, of rape in the first degree (three counts).

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

Memorandum: On appeal from a judgment convicting him upon a jury verdict of three counts of rape in the first degree (Penal Law § 130.35 [3]), defendant contends that County Court erred in denying his motion to dismiss the indictment pursuant to CPL 30.10 because the People failed to charge him before the statute of limitations had expired. We reject that contention. The record supports the court's determination that the crimes charged in the indictment were not reported by the victim until 2003, and thus the limitations period did not commence until then (*see* CPL 30.10 [3] [f]). Contrary to the further contentions of defendant, he received meaningful representation (*see generally* *People v Baldi*, 54 NY2d 137, 147), and the sentence is not unduly harsh or severe.

Entered: December 30, 2010

Patricia L. Morgan
Clerk of the Court