

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

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KA 08-00347

PRESENT: CENTRA, J.P., CARNI, LINDLEY, GREEN, AND GORSKI, JJ.

THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

LATISHA WEBB, DEFENDANT-APPELLANT.

TIMOTHY P. DONAHER, PUBLIC DEFENDER, ROCHESTER (WILLIAM G. PIXLEY OF COUNSEL), FOR DEFENDANT-APPELLANT.

MICHAEL C. GREEN, DISTRICT ATTORNEY, ROCHESTER (STEPHEN X. O'BRIEN OF COUNSEL), FOR RESPONDENT.

Appeal from a judgment of the Supreme Court, Monroe County (Francis A. Affronti, J.), rendered November 21, 2007. The judgment convicted defendant, upon her plea of guilty, of burglary in the second degree.

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

Memorandum: On appeal from a judgment convicting her upon her plea of guilty of burglary in the second degree (Penal Law § 140.25 [2]), defendant contends that Supreme Court abused its discretion in refusing to consider relevant factors during the sentencing proceeding, such as her drug addiction, and thus erred in imposing an enhanced sentence. Defendant failed to move to withdraw the plea or to vacate the judgment of conviction on that ground and thus has failed to preserve her contention for our review (*see People v Reed*, 78 AD3d 1534; *People v Ortiz*, 43 AD3d 1348, *lv denied* 9 NY3d 1008; *People v Mariani*, 6 AD3d 1206, *lv denied* 3 NY3d 643), and we decline to exercise our power to review that contention as a matter of discretion in the interest of justice (*see* CPL 470.15 [6] [a]). We reject defendant's further challenge to the severity of the sentence and decline her request to reduce the sentence as a matter of discretion in the interest of justice (*see* CPL 470.15 [6] [b]; *see generally People v Farrar*, 52 NY2d 302).

Entered: February 10, 2011

Patricia L. Morgan
Clerk of the Court