

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

821

KA 09-00152

PRESENT: SCUDDER, P.J., SMITH, PERADOTTO, LINDLEY, AND GREEN, JJ.

THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

WILLIE J. PRUITT, DEFENDANT-APPELLANT.

TIMOTHY P. DONAHER, PUBLIC DEFENDER, ROCHESTER (ERIC M. DOLAN OF COUNSEL), FOR DEFENDANT-APPELLANT.

MICHAEL C. GREEN, DISTRICT ATTORNEY, ROCHESTER (LORETTA S. COURTNEY OF COUNSEL), FOR RESPONDENT.

Appeal from a judgment of the Monroe County Court (Alex R. Renzi, J.), rendered December 3, 2008. The judgment convicted defendant, upon his plea of guilty, of criminal sale of a controlled substance in or near school grounds.

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

Memorandum: Defendant appeals from a judgment convicting him upon his plea of guilty of criminal sale of a controlled substance in or near school grounds (Penal Law § 220.44 [2]). Contrary to defendant's contention, the sentence is not unduly harsh or severe. We note however, that the certificate of conviction incorrectly recites that defendant was convicted of criminal sale of a controlled substance in the third degree under Penal Law § 220.39 (1), and it must therefore be amended to reflect that he was convicted of criminal sale of a controlled substance in or near school grounds under Penal Law § 220.44 (2) (*see People v Saxton*, 32 AD3d 1286).

Entered: July 1, 2011

Patricia L. Morgan
Clerk of the Court