

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

1149

KA 08-01880

PRESENT: PERADOTTO, J.P., CARNI, LINDLEY, SCONIERS, AND GREEN, JJ.

THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

DAMONE D. BELL, DEFENDANT-APPELLANT.

ALAN BIRNHOLZ, EAST AMHERST, FOR DEFENDANT-APPELLANT.

FRANK A. SEDITA, III, DISTRICT ATTORNEY, BUFFALO (DONNA A. MILLING OF COUNSEL), FOR RESPONDENT.

Appeal from a judgment of the Erie County Court (Thomas P. Franczyk, J.), rendered July 16, 2008. The judgment convicted defendant, upon his plea of guilty, of criminal possession of a controlled substance in the third degree and attempted criminal possession of a weapon in the second degree.

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

Memorandum: Defendant appeals from a judgment convicting him, upon his guilty plea, of criminal possession of a controlled substance in the third degree (Penal Law § 220.16 [1]) and attempted criminal possession of a weapon in the second degree (§§ 110.00, 265.03 [3]). Contrary to defendant's contention, his " 'waiver [of the right to appeal] is not invalid on the ground that [County Court] did not specifically inform [him] that his general waiver of the right to appeal encompassed the court's suppression rulings' " (*People v Graham*, 77 AD3d 1439, 1439, lv denied 15 NY3d 920). Thus, defendant's contention that the court erred in refusing to suppress contraband found on his person and in the vehicle in which he was a passenger is encompassed by his valid waiver of the right to appeal (see *People v Kemp*, 94 NY2d 831, 833).

Entered: November 18, 2011

Patricia L. Morgan
Clerk of the Court