

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

1312

KA 10-01636

PRESENT: SCUDDER, P.J., CENTRA, FAHEY, CARNI, AND SCONIERS, JJ.

THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

CHRISTOPHER J. CARMODY, DEFENDANT-APPELLANT.

O'CONNOR & KRUMAN, P.C., CORTLAND (A.L. BETH O'CONNOR OF COUNSEL), FOR DEFENDANT-APPELLANT.

JON E. BUDELMANN, DISTRICT ATTORNEY, AUBURN (CHRISTOPHER T. VALDINA OF COUNSEL), FOR RESPONDENT.

Appeal from a judgment of the Cayuga County Court (Thomas G. Leone, J.), rendered June 10, 2010. The judgment convicted defendant, upon his plea of guilty, of rape in the third degree and criminal sexual act in the third degree.

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 rape in the third degree (Penal Law § 130.25 [2]) and criminal sexual act in the third degree (§ 130.40 [2]). To the extent that defendant's contention that he was denied effective assistance of counsel survives his guilty plea (*see People v Bethune*, 21 AD3d 1316, *lv denied* 6 NY3d 752), that contention lacks merit (*see generally People v Ford*, 86 NY2d 397, 404). Defendant received "an advantageous plea and nothing in the record casts doubt on the apparent effectiveness of counsel" (*id.*). The sentence is not unduly harsh or severe.

Entered: December 23, 2011

Frances E. Cafarell
Clerk of the Court