

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

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KA 12-01520

PRESENT: SCUDDER, P.J., PERADOTTO, CARNI, LINDLEY, AND VALENTINO, JJ.

THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

STEPHEN M. WAPNIEWSKI, DEFENDANT-APPELLANT.

NORMAN P. EFFMAN, PUBLIC DEFENDER, WARSAW (GREGORY A. KILBURN OF COUNSEL), FOR DEFENDANT-APPELLANT.

Appeal from a judgment of the Wyoming County Court (Michael F. Griffith, J.), rendered July 24, 2012. The judgment convicted defendant, upon his plea of guilty, of attempted criminal sale of a controlled substance in the third degree and welfare fraud in the fifth 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, inter alia, welfare fraud in the fifth degree (Penal Law § 158.05). Defendant's valid waiver of the right to appeal encompasses his contention that County Court erred in directing him to pay a specified amount of restitution without conducting a hearing "inasmuch as that amount was an explicit part of defendant's agreed-upon plea bargain" (*People v Taylor*, 70 AD3d 1121, 1122, lv denied 14 NY3d 845; see *People v Thomas*, 77 AD3d 1325, 1326, lv denied 16 NY3d 800).

Entered: March 21, 2014

Frances E. Cafarell
Clerk of the Court