

State of New York Court of Appeals

MEMORANDUM

This memorandum is uncorrected and subject to revision before publication in the New York Reports.

No. 20
The People &c.,
Respondent,
v.
Leslie K. Olds,
Appellant.

Michael S. Deal, for appellant.
Laura T. Jordan, for respondent.

MEMORANDUM:

The order of the County Court should be affirmed.

After a successful appeal, resulting in the reversal of his conviction upon a nonjury verdict, defendant entered a guilty plea to a different offense before a different judge. The

claim that the sentence imposed upon defendant's guilty plea was presumptively vindictive and imposed without State Due Process protections (*People v Van Pelt*, 76 NY2d 156 [1990]) is unpreserved. Defendant's arguments against imposition of the term of imprisonment, registered before the court imposed sentence, were consistent with arguments for leniency and made no specific reference to the principle of vindictiveness or any potential constitutional violation. Defendant also failed to either object to the sentence actually imposed or move to withdraw his guilty plea. Nor does this record support a claim that the sentence, which was within the ambit of the range of sentences for a class A misdemeanor, was illegal in a respect that "can readily be discerned from the . . . record" (*see People v Pena*, 28 NY3d 727, 730 [2017]; *People v Nieves*, 2 NY3d 310, 315 [2004]). As a result, defendant's arguments are unreviewable.

Order affirmed, in a memorandum. Chief Judge DiFiore and Judges Rivera, Stein, Fahey, Garcia and Wilson concur.

Decided April 1, 2021