

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

**1149**

**KA 18-02047**

PRESENT: SMITH, J.P., CARNI, NEMOYER, CURRAN, AND DEJOSEPH, JJ.

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THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

KEVIN G. VIEHDEFFER, ALSO KNOWN AS KEVIN J. VIEHDEFFER, ALSO KNOWN AS KEVIN GEORGE VIEHDEFFER, ALSO KNOWN AS KEVIN VIEHDEFFER, DEFENDANT-APPELLANT.

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THE LEGAL AID BUREAU OF BUFFALO, INC., BUFFALO (JANE I. YOON OF COUNSEL), FOR DEFENDANT-APPELLANT.

LAWRENCE FRIEDMAN, DISTRICT ATTORNEY, BATAVIA (ROBERT J. SHOEMAKER OF COUNSEL), FOR RESPONDENT.

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Appeal from a judgment of the Genesee County Court (Charles N. Zambito, J.), rendered April 27, 2018. The judgment convicted defendant upon a plea of guilty of bail jumping 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 plea of guilty of bail jumping in the second degree (Penal Law § 215.56). Contrary to defendant's initial contention, the Court of Appeals has rejected the assertion that waivers of the right to appeal should be invalid per se (see *People v Thomas*, 34 NY3d 545, 557-558, 558 n 1 [2019], cert denied – US –, 140 S Ct 2634 [2020]; *People v Seaberg*, 74 NY2d 1, 8-9 [1989]). Even assuming, arguendo, that defendant's waiver of the right to appeal is invalid and therefore does not preclude our review of his challenge to the severity of his sentence (see *People v Love*, 181 AD3d 1193, 1193 [4th Dept 2020]), we conclude that the sentence is not unduly harsh or severe.

Entered: December 23, 2020

Mark W. Bennett  
Clerk of the Court