

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

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KA 13-01753

PRESENT: CENTRA, J.P., PERADOTTO, NEMOYER, TROUTMAN, AND WINSLOW, JJ.

THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

EZEQUIEL SANTANA, DEFENDANT-APPELLANT.

LORENZO NAPOLITANO, ROCHESTER, FOR DEFENDANT-APPELLANT.

SANDRA DOORLEY, DISTRICT ATTORNEY, ROCHESTER (JOSEPH R. PLUKAS OF COUNSEL), FOR RESPONDENT.

Appeal from a judgment of the Supreme Court, Monroe County (Daniel J. Doyle, J.), rendered November 15, 2012. The judgment convicted defendant, upon his plea of guilty, of arson 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 arson in the third degree (Penal Law § 150.10 [1]). Defendant contends that he did not validly waive his right to appeal inasmuch as the questions asked of him with respect to the waiver were vague and thus do not demonstrate that he knowingly, voluntarily, and intelligently waived his right to appeal. We reject that contention. The oral and written waiver of the right to appeal obtained during the plea proceeding establish that defendant knowingly, intelligently, and voluntarily waived his right to appeal (*see People v Butler*, 151 AD3d 1959-1960 [4th Dept 2017], *lv denied* 30 NY3d 948 [2017]). Defendant's valid waiver of the right to appeal encompasses his contention that the sentence imposed is unduly harsh and severe (*see People v Lopez*, 6 NY3d 248, 255-256 [2006]; *People v Hidalgo*, 91 NY2d 733, 737 [1998]; *cf. People v Maracle*, 19 NY3d 925, 928 [2012]).

Entered: February 2, 2018

Mark W. Bennett
Clerk of the Court