

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

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KA 23-01107

PRESENT: WHALEN, P.J., CURRAN, SMITH, NOWAK, AND DELCONTE, JJ.

THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

DAVID HUNTER, DEFENDANT-APPELLANT.

ERICKSON WEBB SCOLTON & HAJDU, LAKEWOOD (LYLE T. HAJDU OF COUNSEL),
FOR DEFENDANT-APPELLANT.

MICHAEL J. KEANE, DISTRICT ATTORNEY, BUFFALO (APRIL J. ORLOWSKI OF
COUNSEL), FOR RESPONDENT.

Appeal from a judgment of the Erie County Court (James F. Bargnesi, J.), rendered January 31, 2020. The judgment convicted defendant upon a plea of guilty of manslaughter in the first 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 manslaughter in the first degree (Penal Law § 125.20 [1]). Assuming, *arguendo*, that defendant's waiver of the right to appeal is invalid (*see People v Thomas*, 34 NY3d 545, 564-566 [2019], *cert denied* – US –, 140 S Ct 2634 [2020]; *People v Stephens*, 189 AD3d 2142, 2142 [4th Dept 2020]; *People v Alls*, 187 AD3d 1515, 1515 [4th Dept 2020]) and thus does not preclude our review of his challenge to the severity of his sentence (*see Stephens*, 189 AD3d at 2142; *Alls*, 187 AD3d at 1515), we conclude that the sentence is not unduly harsh or severe.

Entered: April 25, 2025

Ann Dillon Flynn
Clerk of the Court