

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

302

KA 24-00312

PRESENT: LINDLEY, J.P., MONTOUR, OGDEN, GREENWOOD, AND KEANE, JJ.

THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

VICTORIA TANDLE, DEFENDANT-APPELLANT.

ANDREW D. CORREIA, PUBLIC DEFENDER, LYONS (JAMES ECKERT OF COUNSEL),
FOR DEFENDANT-APPELLANT.

LETITIA JAMES, ATTORNEY GENERAL, ALBANY (DANIEL HUGHES OF COUNSEL),
FOR RESPONDENT.

Appeal from a judgment of the Wayne County Court (Richard M. Healy, J.), rendered January 10, 2024. The judgment convicted defendant, upon her plea of guilty, of criminal possession of a controlled substance in the third degree.

It is hereby ORDERED that the judgment so appealed from is unanimously affirmed.

Memorandum: Defendant appeals from a judgment convicting her, upon a guilty plea, of criminal possession of a controlled substance in the third degree (Penal Law § 220.16 [1]).

Contrary to defendant's contention, the record establishes that she knowingly, voluntarily, and intelligently waived her right to appeal (*see People v Williams*, 228 AD3d 1316, 1316 [4th Dept 2024], *lv denied* 42 NY3d 972 [2024], *reconsideration denied* 42 NY3d 1055 [2024]; *see generally People v Thomas*, 34 NY3d 545, 559-564 [2019], *cert denied* – US –, 140 S Ct 2634 [2020]; *People v Lopez*, 6 NY3d 248, 256 [2006]). County Court's oral colloquy did not, as asserted by defendant, mischaracterize the waiver of the right to appeal as "an absolute bar to the taking of a first-tier direct appeal" (*Thomas*, 34 NY3d at 558; *see People v Figueroa*, 230 AD3d 1581, 1582 [4th Dept 2024], *lv denied* 42 NY3d 1079 [2025]). To the extent that defendant contends that the written waiver form she executed was defective, the oral colloquy, which followed the appropriate model colloquy, "cured that [alleged] defect" (*People v Hoose*, – AD3d –, 2025 NY Slip Op 01436, *1 [4th Dept 2025] [internal quotation marks omitted]).

Defendant's valid waiver of the right to appeal precludes our review of her challenge to the severity of the sentence (*see Lopez*, 6

NY3d at 255-256; *People v Foumakoye*, 229 AD3d 1380, 1380 [4th Dept 2024], *lv denied* 42 NY3d 970 [2024]).

Entered: May 2, 2025

Ann Dillon Flynn
Clerk of the Court