

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

483

KA 22-01835

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

THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

NEHEMIAH JONES, DEFENDANT-APPELLANT.

FRANK H. HISCOCK LEGAL AID SOCIETY, SYRACUSE (LEO DRAWS, ADMITTED PRO HAC VICE, OF COUNSEL), FOR DEFENDANT-APPELLANT.

WILLIAM J. FITZPATRICK, DISTRICT ATTORNEY, SYRACUSE (BRADLEY W. OASTLER OF COUNSEL), FOR RESPONDENT.

Appeal from a judgment of the Onondaga County Court (Thomas J. Miller, J.), rendered September 2, 2022. The judgment convicted defendant upon his plea of guilty of murder in the second degree and criminal possession of a weapon in the second degree (two counts).

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 murder in the second degree (Penal Law § 125.25 [1]) and two counts of criminal possession of a weapon in the second degree (§ 265.03 [1] [b]; [3]). We reject defendant's contention that the waiver of the right to appeal is invalid. The oral colloquy, together with the written waiver, "was sufficient to support a knowing and voluntary waiver under the totality of the circumstances" (*People v Thomas*, 34 NY3d 545, 564 [2019], *cert denied* – US –, 140 S Ct 2634 [2020]; *see People v Drake*, 195 AD3d 1442, 1442 [4th Dept 2021], *lv denied* 37 NY3d 991 [2021], *reconsideration denied* 37 NY3d 1059 [2021]). The valid waiver encompasses defendant's challenge to the severity of the sentence (*see People v Lopez*, 6 NY3d 248, 255 [2006]).

Entered: June 27, 2025

Ann Dillon Flynn
Clerk of the Court