

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

891

**KA 23-00083**

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

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THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

MATTHEW T. ZAKRZEWSKI, DEFENDANT-APPELLANT.

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THE LEGAL AID BUREAU OF BUFFALO, INC., BUFFALO (KERRY A. CONNER OF COUNSEL), FOR DEFENDANT-APPELLANT.

KEVIN T. FINNELL, DISTRICT ATTORNEY, BATAVIA (WILLIAM G. ZICKL OF COUNSEL), FOR RESPONDENT.

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Appeal from a judgment of the Genesee County Court (Melissa Lightcap Cianfrini, J.), rendered October 18, 2022. The judgment convicted defendant upon a plea of guilty of arson in the second degree and 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 second degree (Penal Law § 150.15) and arson in the third degree (§ 150.10 [1]). Contrary to defendant's contention, a waiver of the right to appeal is not unconscionable per se (*see People v Brinkman*, 240 AD3d 1431, 1431-1432 [4th Dept 2025], *lv denied* – NY3d – [2025]; *People v Barr*, 192 AD3d 1571, 1571 [4th Dept 2021], *lv denied* 37 NY3d 954 [2021]; *see also People v Thomas*, 34 NY3d 545, 557-558 [2019], *cert denied* – US –, 140 S Ct 2634 [2020]). Further, the record establishes that defendant's waiver of the right to appeal was knowing, voluntary, and intelligent (*see Brinkman*, 240 AD3d at 1432). The valid waiver encompasses defendant's challenge to the severity of his sentence (*see People v Lopez*, 6 NY3d 248, 256 [2006]; *People v Hoose*, 236 AD3d 1294, 1296 [4th Dept 2025], *lv denied* 44 NY3d 993 [2025]).

Entered: December 23, 2025

Ann Dillon Flynn  
Clerk of the Court