

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

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KA 22-01650

PRESENT: LINDLEY, J.P., CURRAN, OGDEN, GREENWOOD, AND HANNAH, JJ.

THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

NICHOLAS M. MAHER, DEFENDANT-APPELLANT.

THE LEGAL AID BUREAU OF BUFFALO, INC., BUFFALO (SUSAN HUTCHISON OF COUNSEL), FOR DEFENDANT-APPELLANT.

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

Appeal from a judgment of the Genesee County Court (Michael M. Mohun, A.J.), rendered September 9, 2022. 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: On appeal from a judgment convicting him upon his plea of guilty of manslaughter in the first degree (Penal Law § 125.20 [2]), defendant contends that his waiver of the right to appeal is unenforceable and that the sentence is unduly harsh and severe. We affirm.

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 44 NY3d 1027 [2025]; *People v Barr*, 192 AD3d 1571, 1571 [4th Dept 2021], lv denied 37 NY3d 954 [2021]; see generally *People v Thomas*, 34 NY3d 545, 557-558 [2019], cert denied 589 US 1302 [2020]), and it is not improper for the People to demand a waiver of the right to appeal as a condition of a plea bargain (see *Brinkman*, 240 AD3d at 1431-1432; see e.g. *People v Thomas*, 237 AD3d 1557, 1557-1558 [4th Dept 2025], lv denied 43 NY3d 1059 [2025]; *People v Giles*, 219 AD3d 1706, 1706 [4th Dept 2023], lv denied 40 NY3d 1039 [2023]). Further, the record establishes that defendant's waiver of the right to appeal was knowing, voluntary, and intelligent (see *People v Durinko*, 239 AD3d 1347, 1348 [4th Dept 2025], lv denied 44 NY3d 993 [2025]; *People v Brown*, 229 AD3d 1150, 1150-1151 [4th Dept 2024]). 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: March 20, 2026

Ann Dillon Flynn
Clerk of the Court