

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

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**KA 24-00512**

PRESENT: WHALEN, P.J., BANNISTER, MONTOUR, GREENWOOD, AND HANNAH, JJ.

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THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

JACOB CARROLL, DEFENDANT-APPELLANT.

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THE LEGAL AID BUREAU OF BUFFALO, INC., BUFFALO (NICHOLAS P. DIFONZO OF COUNSEL), FOR DEFENDANT-APPELLANT.

MICHAEL J. KEANE, DISTRICT ATTORNEY, BUFFALO (PAUL J. WILLIAMS, III, OF COUNSEL), FOR RESPONDENT.

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Appeal from a judgment of the Erie County Court (James F. Bargnesi, J.), rendered October 23, 2023. The judgment convicted defendant upon a plea of guilty of arson in the second 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 arson in the second degree (Penal Law § 150.15), defendant contends that his waiver of the right to appeal was not knowingly, intelligently, and voluntarily entered and that his sentence is unduly harsh and severe. Even assuming, arguendo, that defendant's waiver of the right to appeal is invalid and therefore does not preclude our review of his challenge to the severity of his sentence (*see People v John*, 244 AD3d 1782, 1782 [4th Dept 2025]; *People v Swiderski*, 217 AD3d 1416, 1417 [4th Dept 2023]), we conclude that the sentence is not unduly harsh or severe.

Entered: June 5, 2026

Ann Dillon Flynn  
Clerk of the Court