

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

654

KA 19-00734

PRESENT: CENTRA, J.P., CARNI, CURRAN, WINSLOW, AND DEJOSEPH, JJ.

THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

JAMES MCELWEE, DEFENDANT-APPELLANT.

CARA A. WALDMAN, FAIRPORT, FOR DEFENDANT-APPELLANT.

TODD J. CASELLA, DISTRICT ATTORNEY, PENN YAN (R. MICHAEL TANTILLO OF COUNSEL), FOR RESPONDENT.

Appeal from a judgment of the Yates County Court (Jason L. Cook, J.), rendered November 26, 2018. The judgment convicted defendant upon a plea of guilty of reckless endangerment in the first 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 reckless endangerment in the first degree (Penal Law § 120.25). Contrary to defendant's contention, his waiver of the right to appeal was knowing, voluntary, and intelligent (see generally *People v Thomas*, 34 NY3d 545, 564 [2019], cert denied – US –, 140 S Ct 2634 [2020]; *People v Taylor*, 192 AD3d 1683, 1684 [4th Dept 2021]). That valid waiver forecloses defendant's challenge to the severity of the sentence (see *People v Lopez*, 6 NY3d 248, 255 [2006]; *People v Hidalgo*, 91 NY2d 733, 737 [1998]).

Entered: July 9, 2021

Mark W. Bennett
Clerk of the Court