

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

321

KA 24-01537

PRESENT: CURRAN, J.P., BANNISTER, SMITH, DELCONTE, AND HANNAH, JJ.

THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

MELIQ SIMMONDS, DEFENDANT-APPELLANT.

FRANK POLICELLI, UTICA, FOR DEFENDANT-APPELLANT.

TODD C. CARVILLE, DISTRICT ATTORNEY, UTICA (DAWN CATERA LUPI OF COUNSEL), FOR RESPONDENT.

Appeal from a judgment of the Oneida County Court (Robert Bauer, J.), rendered January 2, 2024. The judgment convicted defendant, upon his plea of guilty, of criminal possession of a weapon in the second degree and criminal possession of a firearm.

It is hereby ORDERED that the judgment so appealed from is unanimously affirmed.

Memorandum: Defendant appeals from a judgment convicting him, upon a plea of guilty, of criminal possession of a weapon in the second degree (Penal Law § 265.03 [3]) and criminal possession of a firearm (§ 265.01-b [1]). Even assuming, arguendo, that defendant's waiver of the right to appeal is invalid (see *People v Lyon*, 227 AD3d 1521, 1522 [4th Dept 2024], *lv denied* 42 NY3d 928 [2024]; *People v Tennant*, 217 AD3d 1564, 1564 [4th Dept 2023]; see generally *People v Thomas*, 34 NY3d 545, 564-566 [2019], *cert denied* — US —, 140 S Ct 2634 [2020]) and thus does not preclude our review of his challenge to the severity of the sentence (see *People v Mendoza*, 37 NY3d 1075, 1076 [2021]), we nevertheless conclude that the sentence is not unduly harsh or severe.

Entered: June 6, 2025

Ann Dillon Flynn
Clerk of the Court