

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

**421**

**KA 24-00759**

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

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THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

PAUL J. DURINKO, DEFENDANT-APPELLANT.

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NICHOLAS T. TEXIDO, BUFFALO, FOR DEFENDANT-APPELLANT.

VINCENT A. HEMMING, DISTRICT ATTORNEY, WARSAW (MATTHEW J. DILLON OF COUNSEL), FOR RESPONDENT.

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Appeal from a judgment of the Wyoming County Court (Michael M. Mohun, J.), rendered March 6, 2023. The judgment convicted defendant upon his plea of guilty of criminal possession of a controlled substance in the third degree and assault 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 criminal possession of a controlled substance in the third degree (Penal Law § 220.16 [7]) and assault in the second degree (§ 120.05 [3]), defendant contends that the enhanced sentence imposed following his violation of the terms of the plea agreement is unduly harsh and severe. Defendant, however, knowingly, voluntarily, and intelligently waived his right to appeal (*see People v Thomas*, 34 NY3d 545, 565-566 [2019], *cert denied* – US –, 140 S Ct 2634 [2020]; *People v Brown*, 229 AD3d 1150, 1150-1151 [4th Dept 2024]) and, because County Court advised defendant of the maximum sentence that could be imposed if he violated the plea agreement, that waiver encompasses his challenge to the severity of the enhanced sentence (*see People v Ney*, 229 AD3d 1251, 1252-1253 [4th Dept 2024], *lv denied* 42 NY3d 1021 [2024]; *People v Roberto*, 224 AD3d 1367, 1368 [4th Dept 2024]; *People v VanDeViver*, 56 AD3d 1118, 1119 [4th Dept 2008], *lv denied* 11 NY3d 931 [2009], *reconsideration denied* 12 NY3d 788 [2009]).

Entered: June 6, 2025

Ann Dillon Flynn  
Clerk of the Court