

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

763

**KA 21-00549**

PRESENT: WHALEN, P.J., NEMOYER, CURRAN, BANNISTER, AND MONTOUR, JJ.

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THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

JASON B. OSGOOD, DEFENDANT-APPELLANT.

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LEANNE LAPP, PUBLIC DEFENDER, CANANDAIGUA (BRADLEY E. KEEM OF COUNSEL), FOR DEFENDANT-APPELLANT.

JAMES B. RITTS, DISTRICT ATTORNEY, CANANDAIGUA (V. CHRISTOPHER EAGGLESTON OF COUNSEL), FOR RESPONDENT.

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Appeal from a judgment of the Ontario County Court (Kristina Karle, J.), rendered February 24, 2021. The judgment convicted defendant upon his plea of guilty of burglary in the third 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 burglary in the third degree (Penal Law § 140.20), defendant contends that his waiver of the right to appeal is invalid and that the sentence is unduly harsh and severe. Contrary to defendant's contention, the record establishes that he knowingly, intelligently, and voluntarily waived his right to appeal (*see generally People v Lopez*, 6 NY3d 248, 256 [2006]), and we note that County Court used the appropriate model colloquy with respect to the waiver of the right to appeal (*see generally People v Thomas*, 34 NY3d 545, 567 [2019], *cert denied* – US –, 140 S Ct 2634 [2020]; *People v Jeffords*, 185 AD3d 1417, 1417-1418 [4th Dept 2020], *lv denied* 35 NY3d 1095 [2020]). The valid waiver of the right to appeal encompasses defendant's challenge to the severity of the bargained-for sentence (*see Lopez*, 6 NY3d at 255-256).

Entered: November 10, 2022

Ann Dillon Flynn  
Clerk of the Court