

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

614

KA 21-00695

PRESENT: LINDLEY, J.P., CURRAN, MONTOUR, GREENWOOD, AND DELCONTE, JJ.

THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

GAMEL WILLIAMS, DEFENDANT-APPELLANT.
(APPEAL NO. 1.)

THE LEGAL AID BUREAU OF BUFFALO, INC., BUFFALO (ROBERT L. KEMP OF COUNSEL), FOR DEFENDANT-APPELLANT.

JOHN J. FLYNN, DISTRICT ATTORNEY, BUFFALO (MICHAEL J. HILLERY OF COUNSEL), FOR RESPONDENT.

Appeal from a judgment of the Supreme Court, Erie County (Russell P. Buscaglia, A.J.), rendered May 8, 2019. The judgment convicted defendant, upon his plea of guilty, of burglary in the second degree.

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

Memorandum: Defendant appeals from four judgments convicting him, upon his pleas of guilty, of various crimes. In appeal No. 1, defendant was convicted of burglary in the second degree (Penal Law § 140.25 [2]). In appeal No. 2, defendant was convicted of attempted burglary in the third degree (§§ 110.00, 140.20), petit larceny (§ 155.25), and two counts of attempted burglary in the second degree (§§ 110.00, 140.25 [2]). In appeal No. 3, defendant was convicted of four counts of attempted burglary in the second degree (§§ 110.00, 140.25 [2]). In appeal No. 4, defendant was convicted of two counts of attempted burglary in the second degree (§§ 110.00, 140.25 [2]). We affirm in each appeal.

As defendant contends and the People correctly concede in each appeal, defendant did not validly waive his right to appeal (see *People v Thomas*, 34 NY3d 545, 565-566 [2019], cert denied – US –, 140 S Ct 2634 [2020]; *People v Cole*, 201 AD3d 1360, 1360-1361 [4th Dept 2022]; *People v Porterfield*, 192 AD3d 1662, 1662 [4th Dept 2021], lv denied 37 NY3d 959 [2021]). Nevertheless, we conclude that the sentence in each appeal is not unduly harsh or severe.

Entered: September 29, 2023

Ann Dillon Flynn
Clerk of the Court