

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

**334**

**KA 22-00237**

PRESENT: SMITH, J.P., BANNISTER, MONTOUR, GREENWOOD, AND NOWAK, JJ.

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THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

DEVONTE BOUIE, DEFENDANT-APPELLANT.

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JULIE CIANCA, PUBLIC DEFENDER, ROCHESTER (JANE I. YOON OF COUNSEL),  
FOR DEFENDANT-APPELLANT.

SANDRA DOORLEY, DISTRICT ATTORNEY, ROCHESTER (LISA GRAY OF COUNSEL),  
FOR RESPONDENT.

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Appeal from a judgment of the Supreme Court, Monroe County (Alex R. Renzi, J.), rendered May 19, 2021. The judgment convicted defendant, upon a guilty plea, of manslaughter 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 a plea of guilty, of manslaughter in the first degree (Penal Law § 125.20 [1]). We agree with defendant that his waiver of the right to appeal is invalid. The written waiver used overbroad language that " 'mischaracterized the nature of the right[s] that defendant was being asked to cede, portraying the waiver as an absolute bar to defendant taking an appeal' " (*People v Johnson*, 192 AD3d 1494, 1495 [4th Dept 2021], *lv denied* 37 NY3d 965 [2021]; *see People v Thomas*, 34 NY3d 545, 565 [2019], *cert denied* – US –, 140 S Ct 2634 [2020]; *People v St. Denis*, 207 AD3d 1084, 1084 [4th Dept 2022]), and the oral colloquy did not cure that defect (*see Thomas*, 34 NY3d at 566; *People v Fernandez*, 218 AD3d 1257, 1258 [4th Dept 2023], *lv denied* 40 NY3d 1012 [2023]; *People v Rumph*, 207 AD3d 1209, 1210 [4th Dept 2022], *lv denied* 39 NY3d 1075 [2023]). Nevertheless, we reject defendant's contention that his sentence is unduly harsh and severe.

Entered: May 10, 2024

Ann Dillon Flynn  
Clerk of the Court