

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

1451

**KA 16-00533**

PRESENT: CENTRA, J.P., PERADOTTO, DEJOSEPH, NEMOYER, AND CURRAN, JJ.

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THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

MAHALIA GUEST, DEFENDANT-APPELLANT.

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THE LEGAL AID BUREAU OF BUFFALO, INC., BUFFALO (TIMOTHY P. MURPHY OF COUNSEL), FOR DEFENDANT-APPELLANT.

JOHN J. FLYNN, DISTRICT ATTORNEY, BUFFALO (DANIEL J. PUNCH OF COUNSEL), FOR RESPONDENT.

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Appeal from a judgment of the Erie County Court (Thomas P. Franczyk, J.), rendered March 10, 2016. The judgment convicted defendant, upon her plea of guilty, 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 her upon her plea of guilty of manslaughter in the first degree (Penal Law § 125.20 [1]). Contrary to defendant's contention, we conclude that she "knowingly, intelligently and voluntarily" waived her right to appeal (*People v Lopez*, 6 NY3d 248, 256 [2006]), and that she "ha[d] 'a full appreciation of the consequences' of such waiver" (*People v Bradshaw*, 18 NY3d 257, 264 [2011]). We further conclude, "[b]ased on the combination of a lengthy oral colloquy, a written waiver wherein defendant 'expressly waived [her] right to appeal without limitation,' and an acknowledgment of that written waiver during the oral colloquy . . . , that the valid waiver of the right to appeal encompasses defendant's challenge to the severity of the sentence" (*People v Morales*, 148 AD3d 1638, 1639 [4th Dept 2017], lv denied 29 NY3d 1083 [2017]). We have reviewed defendant's remaining contentions regarding the waiver of the right to appeal and conclude that they are without merit.

Entered: December 22, 2017

Mark W. Bennett  
Clerk of the Court