

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

**1263**

**KA 17-02219**

PRESENT: SMITH, J.P., NEMOYER, TROUTMAN, AND BANNISTER, JJ.

---

THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

PATRICIA BRAND, DEFENDANT-APPELLANT.

---

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 Erie County Court (Sheila A. DiTullio, J.), rendered October 12, 2017. The judgment convicted defendant upon a plea of guilty of assault in the second degree.

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

Memorandum: Defendant appeals from a judgment convicting her upon a plea of guilty of assault in the second degree (Penal Law § 120.05 [3]). Contrary to her contention, she knowingly, intelligently, and voluntarily waived the right to appeal (*see generally People v Lopez*, 6 NY3d 248, 256 [2006]). The record of the plea proceeding establishes that County Court engaged her in "an adequate colloquy to ensure that the waiver of the right to appeal was a knowing and voluntary choice" (*People v Steinbrecher*, 169 AD3d 1462, 1463 [4th Dept 2019], *lv denied* 33 NY3d 1108 [2019] [internal quotation marks omitted]). Defendant's valid waiver of the right to appeal encompasses her challenge to the severity of her sentence (*see Lopez*, 6 NY3d at 255-256).

Entered: December 20, 2019

Mark W. Bennett  
Clerk of the Court