

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

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KA 19-00658

PRESENT: WHALEN, P.J., CENTRA, PERADOTTO, LINDLEY, AND TROUTMAN, JJ.

THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

ALEXANDRIA HEATH, DEFENDANT-APPELLANT.

THE LEGAL AID BUREAU OF BUFFALO, INC., BUFFALO (ERIN A. KULESUS 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 (Kenneth F. Case, J.), rendered February 21, 2019. The judgment convicted defendant upon her plea of guilty of murder in the second degree.

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

Memorandum: On appeal from a judgment convicting her upon her plea of guilty of murder in the second degree (Penal Law § 125.25 [1]), defendant contends that her waiver of the right to appeal is invalid and that her sentence is unduly harsh and severe. The record establishes that the oral colloquy, together with the written waiver of the right to appeal, was adequate to ensure that defendant's waiver of the right to appeal was made knowingly, intelligently, and voluntarily (see *People v Thomas*, 34 NY3d 545, 564 [2019], *cert denied* – US –, 140 S Ct 2634 [2020]; *People v Jenkins*, 184 AD3d 1150, 1150 [4th Dept 2020], *lv denied* 35 NY3d 1067 [2020]), and that valid waiver forecloses her challenge to the severity of the sentence (see *People v Lopez*, 6 NY3d 248, 255 [2006]; *People v Hidalgo*, 91 NY2d 733, 737 [1998]).

Entered: March 19, 2021

Mark W. Bennett
Clerk of the Court