

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

797

**KA 21-01561**

PRESENT: SMITH, J.P., PERADOTTO, CURRAN, WINSLOW, AND MONTOUR, JJ.

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THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

CHRISTINA L. DEGROFF, DEFENDANT-APPELLANT.

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ROBERT M. GRAFF, LOCKPORT, FOR DEFENDANT-APPELLANT.

BRIAN D. SEAMAN, DISTRICT ATTORNEY, LOCKPORT (SAMUEL L. MALEBRANCHE OF COUNSEL), FOR RESPONDENT.

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Appeal from a judgment of the Niagara County Court (Matthew J. Murphy, III, J.), rendered September 27, 2021. The judgment convicted defendant upon a plea of guilty of assault in the second degree (two counts), reckless endangerment in the first degree and endangering the welfare of a child (two counts).

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 two counts of assault in the second degree (Penal Law § 120.05 [9]), one count of reckless endangerment in the first degree (§ 120.25), and two counts of endangering the welfare of a child (§ 260.10 [1]). Even assuming, arguendo, that defendant's waiver of the right to appeal is invalid (*see generally People v Thomas*, 34 NY3d 545, 565-566 [2019], *cert denied* – US –, 140 S Ct 2634 [2020]; *People v Crogan*, 181 AD3d 1212, 1212-1213 [4th Dept 2020], *lv denied* 35 NY3d 1026 [2020]) and therefore does not preclude our review of her challenge to the severity of her sentence (*see People v Alls*, 187 AD3d 1515, 1515 [4th Dept 2020]), we conclude that the sentence is not unduly harsh or severe.

Entered: November 18, 2022

Ann Dillon Flynn  
Clerk of the Court