

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

832

KA 20-01240

PRESENT: WHALEN, P.J., LINDLEY, BANNISTER, NOWAK, AND HANNAH, JJ.

THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

MIKEL R. ODLE, DEFENDANT-APPELLANT.

RYAN JAMES MULDOON, AUBURN, FOR DEFENDANT-APPELLANT.

KRISTYNA S. MILLS, DISTRICT ATTORNEY, WATERTOWN (MORGAN R. MAYER OF COUNSEL), FOR RESPONDENT.

Appeal from a resentence of the Jefferson County Court (David A. Renzi, J.), rendered August 28, 2020. Defendant was resentenced upon his conviction of murder in the second degree, attempted murder in the first degree and reckless endangerment in the first degree.

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

Memorandum: Defendant was convicted upon his plea of guilty of murder in the second degree (Penal Law § 125.25 [1]), attempted murder in the first degree (§§ 110.00, 125.27 [1] [a] [viii]; [b]), and reckless endangerment in the first degree (§ 120.25), and now appeals from the resentence. We affirm.

Assuming, arguendo, that defendant's waiver of the right to appeal is invalid or otherwise does not encompass his challenge to the severity of the resentence (see generally *People v Fortner*, 203 AD3d 1690, 1690 [4th Dept 2022], lv denied 38 NY3d 1007 [2022]; *People v Jirdon*, 159 AD3d 1518, 1519 [4th Dept 2018]), we nevertheless conclude that the resentence is not unduly harsh or severe.

Entered: December 20, 2024

Ann Dillon Flynn
Clerk of the Court