

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

737

**KA 23-00853**

PRESENT: LINDLEY, J.P., BANNISTER, OGDEN, NOWAK, AND DELCONTE, JJ.

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THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

HASHA OUTLEY, DEFENDANT-APPELLANT.

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FRANK H. HISCOCK LEGAL AID SOCIETY, SYRACUSE (KRISTINE BIALY-VIAU OF COUNSEL), FOR DEFENDANT-APPELLANT.

WILLIAM J. FITZPATRICK, DISTRICT ATTORNEY, SYRACUSE (BRADLEY W. OASTLER OF COUNSEL), FOR RESPONDENT.

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Appeal from a judgment of the Onondaga County Court (Stephen J. Dougherty, J.), rendered June 1, 2022. The judgment convicted defendant, upon her plea of guilty, of criminal possession of a weapon in the second degree, reckless endangerment in the first degree, unlawful fleeing a police officer in a motor vehicle in the third degree and tampering with physical evidence.

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 criminal possession of a weapon in the second degree (Penal Law § 265.03 [3]), reckless endangerment in the first degree (§ 120.25), unlawful fleeing a police officer in a motor vehicle in the third degree (§ 270.25), and tampering with physical evidence (§ 215.40 [2]).

We agree with defendant that her waiver of the right to appeal was invalid. County Court's oral colloquy "mischaracterized [the waiver] as an absolute bar to the taking of an appeal" (*People v McCrayer*, 199 AD3d 1401, 1401 [4th Dept 2021]; see *People v Thomas*, 34 NY3d 545, 565 [2019], cert denied — US —, 140 S Ct 2634 [2020]) and, although the record establishes that defendant executed a written waiver of the right to appeal, the written waiver "does not cure the deficient oral colloquy because the court did not inquire of defendant whether [she] understood the written waiver or . . . had read the waiver before signing it" (*People v Augello*, 222 AD3d 1398, 1399 [4th Dept 2023], lv denied 41 NY3d 942 [2024]). Nonetheless, we conclude

that the sentence is not unduly harsh or severe.

Entered: November 15, 2024

Ann Dillon Flynn  
Clerk of the Court