

**SUPREME COURT OF THE STATE OF NEW YORK, APPELLATE DIVISION,
FOURTH JUDICIAL DEPARTMENT**

People v. Hoffman

2021 NY Slip Op 00689 (App. Div. 2021) · No. 140 KA 18-01133 · Decided February 5, 2021

OPINION

PER CURIAM.

People v Hoffman (2021 NY Slip Op 00689) People v Hoffman 2021 NY Slip Op 00689 Decided on February 5, 2021 Appellate Division, Fourth Department Published by New York State Law Reporting Bureau pursuant to Judiciary Law § 431. This opinion is uncorrected and subject to revision before publication in the Official Reports. Decided on February 5, 2021 SUPREME COURT OF THE STATE OF NEW YORK Appellate Division, Fourth Judicial Department PRESENT: CENTRA, J.P., LINDLEY, CURRAN, BANNISTER, AND DEJOSEPH, JJ. 140 KA 18-01133 [*1]THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, vPAUL R. HOFFMAN, JR., DEFENDANT-APPELLANT.

THE LEGAL AID BUREAU OF BUFFALO, INC., BUFFALO (JANE I. YOON OF COUNSEL), FOR DEFENDANT-APPELLANT. LAWRENCE FRIEDMAN, DISTRICT ATTORNEY, BATAVIA (ROBERT J. SHOEMAKER OF COUNSEL), FOR RESPONDENT. Appeal from a judgment of the Genesee County Court (Charles N. Zambito, J.), rendered January 26, 2018.

The judgment convicted defendant, upon his plea of guilty, of assault in the second degree. It is hereby ORDERED that the judgment so appealed from is unanimously affirmed. Memorandum: On appeal from a judgment convicting him, upon his plea of guilty, of assault in the second degree (Penal Law § 120.05 [2]), defendant contends that his waiver of the right to appeal is invalid and that his sentence is unduly harsh and severe.

Even assuming, arguendo, that defendant's waiver of the right to appeal is invalid and therefore does not preclude our review of his challenge to the severity of his sentence (see *People v Love*, 181 AD3d 1193, 1193 [4th Dept 2020]), we conclude that the sentence is not unduly harsh or severe. Entered: February 5, 2021 Mark W. Bennett Clerk of the Court