

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

People v. Souclat-Vega

2023 NY Slip Op 02231 (N.Y. Ct. App. 2023) · No. 322 KA 19-01435 · Decided April 28, 2023

SUMMARY

The Appellate Division, Fourth Department affirmed a judgment convicting Luis Souclat-Vega upon his guilty plea to assault in the second degree. The court held that the defendant's waiver of the right to appeal was invalid but concluded that the sentence was not unduly harsh or severe.

OPINION

PER CURIAM.

People v Souclat-Vega (2023 NY Slip Op 02231) People v Souclat-vega 2023 NY Slip Op 02231 Decided on April 28, 2023 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 April 28, 2023 SUPREME COURT OF THE STATE OF NEW YORK Appellate Division, Fourth Judicial Department PRESENT: SMITH, J.P., LINDLEY, CURRAN, MONTOUR, AND OGDEN, JJ. 322 KA 19-01435 [*1]THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, vLUIS SOUCLAT-VEGA, DEFENDANT-APPELLANT.

JULIE CIANCA, PUBLIC DEFENDER, ROCHESTER (TONYA PLANK OF COUNSEL), FOR DEFENDANT-APPELLANT. SANDRA DOORLEY, DISTRICT ATTORNEY, ROCHESTER (SCOTT MYLES OF COUNSEL), FOR RESPONDENT. Appeal from a judgment of the Monroe County Court (Vincent M. Dinolfo, J.), rendered June 6, 2019.

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 [1]), defendant contends that his waiver of the right to appeal is invalid and that his sentence is unduly harsh and severe.

As the People correctly concede, defendant's waiver of the right to appeal is invalid and thus does not preclude our review of his challenge to the severity of his sentence (see *People v Thomas*, 34 NY3d 545, 564-566 [2019], cert denied — US —, 140 S Ct 2634 [2020]; *People v Hettig*, 210 AD3d 1508, 1508-1509 [4th Dept 2022], lv denied 39 NY3d 1073 [2023]).

We nevertheless conclude that the sentence is not unduly harsh or severe. Entered: April 28, 2023
Ann Dillon Flynn Clerk of the Court

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