



## People v Garry

2023 NY Slip Op 00672 (2023) | Cited 0 times | Appellate Division of the Supreme Court of New York | February 8, 2023

Patricia Pazner, New York, NY (Lynn W. L. Fahey of counsel), for appellant.

Sylvia O. Hinds-Radix, Corporation Counsel, New York, NY (Melanie T. West and MacKenzie Fallow of counsel), for respondent.

### DECISION & ORDER

Appeal by the defendant, as limited by his motion, from a resentence of the Supreme Court, Queens County (Ushir Pandit-Durant, J.), imposed October 18, 2021, upon his plea of guilty, on the ground that the resentence was excessive.

ORDERED that the resentence is affirmed.

The defendant's purported waiver of his right to appeal was invalid and, therefore, does not preclude appellate review of his contention that the resentence imposed was excessive. In light of the defendant's limited education, among other factors, we conclude that the defendant did not knowingly, voluntarily, and intelligently waive his right to appeal (see *People v Seaberg*, 74 NY2d 1, 11). Nevertheless, the resentence imposed was not excessive (see *People v Suite*, 90 AD2d 80).

DILLON, J.P., CHRISTOPHER, FORD and TAYLOR, JJ., concur.

Maria T. Fasulo

Clerk of the Court

