

State of New York
Supreme Court, Appellate Division
Third Judicial Department

Decided and Entered: February 2, 2012

103893

THE PEOPLE OF THE STATE OF
NEW YORK,

Respondent,

v

MEMORANDUM AND ORDER

JASON W. ANNETTE,

Appellant.

Calendar Date: December 12, 2011

Before: Rose, J.P., Lahtinen, McCarthy, Garry and Egan Jr., JJ.

John J. Goodman, Greenwich, for appellant.

Derek P. Champagne, District Attorney, Malone (Glenn MacNeill of counsel), for respondent.

Appeal from a judgment of the County Court of Franklin County (Main Jr., J.), rendered December 6, 2010, convicting defendant upon his plea of guilty of the crimes of rape in the third degree and attempted criminal possession of a weapon in the third degree.

In satisfaction of the charges contained in two indictments, defendant pleaded guilty to rape in the third degree and attempted criminal possession of a weapon in the third degree. Pursuant to the terms of the plea agreement, defendant was to be sentenced as a second felony offender to 2 to 4 years in prison for each crime – with the understanding that County Court was not making any commitment as to whether those sentences would run concurrently or consecutively. Defendant also waived his right to appeal except as to those issues that were either related to sentencing or constitutional in nature. County Court

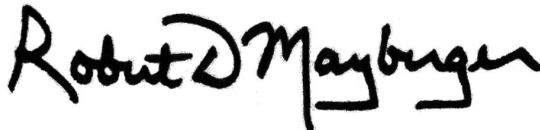
thereafter sentenced defendant to the agreed-upon terms of imprisonment and directed that they run consecutively to one another. Defendant now appeals.

Appellate counsel seeks to be relieved of his assignment of representing defendant upon the ground that there are no nonfrivolous issues to be raised on appeal. Upon our review of the record and counsel's brief, we agree. Accordingly, the judgment of conviction is affirmed and counsel's application for leave to withdraw is granted (see People v Cruwys, 113 AD2d 979, 980 [1985], lv denied 67 NY2d 650 [1986]; see generally People v Stokes, 95 NY2d 633 [2001]).

Rose, J.P., Lahtinen, McCarthy, Garry and Egan Jr., JJ., concur.

ORDERED that the judgment is affirmed, and application to be relieved of assignment granted.

ENTER:

A handwritten signature in black ink that reads "Robert D. Mayberger". The signature is written in a cursive, slightly slanted style.

Robert D. Mayberger
Clerk of the Court