

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

Decided and Entered: July 5, 2012

104182

THE PEOPLE OF THE STATE OF
NEW YORK,

Respondent,

v

MEMORANDUM AND ORDER

JOSEPH DUCHENEAX,

Appellant.

Calendar Date: May 9, 2012

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

Lisa A. Burgess, Indian Lake, for appellant.

Kristy L. Sprague, District Attorney, Elizabethtown
(Michele A. Bowen of counsel), for respondent.

Appeal from a judgment of the County Court of Essex County
(Meyer, J.), rendered March 21, 2011, which revoked defendant's
probation and imposed a sentence of imprisonment.

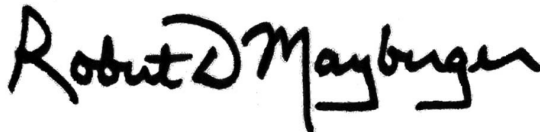
Defendant pleaded guilty to criminal mischief in the third
degree and was sentenced to five years of probation. Thereafter,
he was charged with violating various conditions of his
probation. In satisfaction thereof, and in exchange for the
People's agreement not to charge him with bail jumping, defendant
pleaded guilty to one of the violations, namely, failure to
report to his probation officer. He also waived his right to
appeal. County Court did not commit to any particular sentence
as part of the plea agreement. The court subsequently revoked
defendant's probation and resentenced him to 1 to 3 years in
prison. Defendant now appeals.

Defendant's sole contention is that the resentencing is harsh and excessive. We are, however, precluded from addressing this claim due to defendant's knowing, voluntary and intelligent waiver of the right of appeal his conviction and sentence that was entered in connection with the disposition of his probation violations (see People v Lewis, 69 AD3d 1232, 1234 [2010]; People v Joseph, 69 AD3d 1056, 1056 [2010]). Therefore, the judgment is affirmed.

Rose, J.P., Lahtinen, Stein, McCarthy and Garry, JJ.,
concur.

ORDERED that the judgment is affirmed.

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