

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

Decided and Entered: July 5, 2012

104408

THE PEOPLE OF THE STATE OF
NEW YORK,

Respondent,

v

MEMORANDUM AND ORDER

ANGELA LOPEZ,

Appellant.

Calendar Date: May 30, 2012

Before: Mercure, J.P., Rose, Kavanagh, McCarthy and
Egan Jr., JJ.

Cynthia Feathers, Glens Falls, for appellant.

P. David Soares, District Attorney, Albany (Steven M. Sharp
of counsel), for respondent.

Mercure, J.P.

Appeal from a judgment of the Supreme Court (Lamont, J.), rendered August 5, 2011 in Albany County, convicting defendant upon her plea of guilty of the crimes of welfare fraud in the second degree and grand larceny in the third degree.

In satisfaction of a 19-count indictment and uncharged state tax crimes, defendant pleaded guilty to welfare fraud in the second degree and grand larceny in the third degree, and waived her right to appeal her conviction and sentence. She was sentenced, according to the plea agreement, to two concurrent prison terms of 2 to 6 years and ordered to pay restitution and surcharges totalling approximately \$100,000. She now appeals, arguing that her appeal waiver is invalid and that her sentence

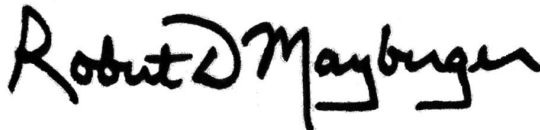
is harsh and excessive.

We affirm. During the plea colloquy, Supreme Court fully and separately explained to defendant the nature of the appeal rights she was waiving and the consequences of doing so. Defendant, after conferring with counsel, orally confirmed that she understood and agreed to waive those rights, and also executed a written appeal waiver that acknowledged her understanding that the right to appeal is not automatically forfeited upon a plea of guilty and that she had consulted with her attorney concerning the legal ramifications of her waiver. Under these circumstances, we find that defendant validly waived her right to appeal her conviction and sentence (see People v Ramos, 7 NY3d 737, 738 [2006]; People v Lewis, 70 AD3d 1068, 1068 [2010], lv denied 15 NY3d 752 [2010]; cf. People v Maracle, ___ NY3d ___, ___, 2012 NY Slip Op 05121, *3-*4 [2012]; People v Bradshaw, 18 NY3d 257, 267 [2011]), thereby precluding review of her claim that her sentence is harsh and excessive (see People v Lopez, 6 NY3d 248, 255-256 [2006]; People v Phelan, 77 AD3d 987, 988 [2010], lv denied 16 NY3d 830, 834 [2011]).

Rose, Kavanagh, McCarthy and Egan Jr., JJ., concur.

ORDERED that the judgment is affirmed, and matter remitted to the Supreme Court for further proceedings pursuant to CPL 460.50 (5).

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