

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

Decided and Entered: June 21, 2012

104444

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THE PEOPLE OF THE STATE OF  
NEW YORK,

Respondent,

v

MEMORANDUM AND ORDER

DERRICK BROWN,

Appellant.

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Calendar Date: May 9, 2012

Before: Rose, J.P., Lahtinen, Kavanagh, Stein and Egan Jr., JJ.

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Greenwald Law Offices, Chester (David L. Gove of counsel),  
for appellant.

James R. Farrell, District Attorney, Monticello (Bonnie M.  
Mitzner of counsel), for respondent.

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Appeal from a judgment of the County Court of Sullivan  
County (LaBuda, J.), rendered June 13, 2011, convicting defendant  
upon his plea of guilty of the crimes of burglary in the second  
degree, grand larceny in the fourth degree, criminal possession  
of stolen property in the fourth degree, conspiracy in the fourth  
degree, attempted petit larceny and unlawful possession of  
marihuana.

This 18-year-old defendant entered an open plea to a  
indictment charging him with burglary in the second degree, grand  
larceny in the fourth degree, criminal possession of stolen  
property in the fourth degree, conspiracy in the fourth degree,  
attempted petit larceny and unlawful possession of marihuana  
without any promise being made with respect to the sentence.  
Thereafter, County Court sentenced defendant to 12 years in

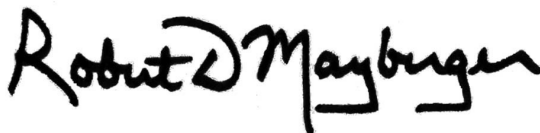
prison and five years of postrelease supervision on the burglary conviction, 1½ to 4 years in prison on the grand larceny, criminal possession of stolen property and conspiracy convictions, 90 days in jail on the attempted petit larceny conviction and 15 days in jail on the unlawful possession of marihuana conviction. The court directed all of the sentences to run concurrently with the burglary conviction, with the exception of the sentence on the conspiracy conviction, which was to run consecutively. Defendant now appeals contending that the 13½ to 16-year aggregate sentence is harsh and excessive.

We affirm. In light of defendant's brief but extensive criminal history, his inability to comply with supervision and the victim impact statements, we are not persuaded to exercise our discretion in the interest of justice and reduce his sentence (see People v Sanchez, 87 AD3d 1226, 1227 [2011], lv denied 18 NY3d 928 [2012]).

Rose, J.P., Lahtinen, Kavanagh, Stein and Egan Jr., 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