

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

Decided and Entered: December 4, 2014

106450

THE PEOPLE OF THE STATE OF
NEW YORK,

Respondent,

v

MEMORANDUM AND ORDER

RICHARD E. FARRELL JR.,
Appellant.

Calendar Date: October 21, 2014

Before: Lahtinen, J.P., Stein, Garry, Lynch and Devine, JJ.

G. Scott Walling, Schenectady, for appellant, and appellant
pro se.

J. Anthony Jordan, District Attorney, Fort Edward (Sara E.
Fischer of counsel), for respondent.

Appeal from a judgment of the County Court of Washington
County (McKeighan, J.), rendered March 3, 2013, convicting
defendant upon his guilty plea of the crime of attempted burglary
in the third degree, as amended by judgment rendered October 18,
2013.

Defendant pleaded guilty to burglary in the third degree in
satisfaction of a two-count indictment and waived his right to
appeal during the plea colloquy and signed a written appeal
waiver in open court in exchange for a promised prison sentence,
as a second felony offender, of 1½ to 3 years. On March 3, 2013,
he was sentenced, as an admitted second felony offender, in
accordance with the plea agreement. At an October 18, 2013
appearance, County Court reduced the conviction, on consent of
the parties, to attempted burglary in the third degree to reflect

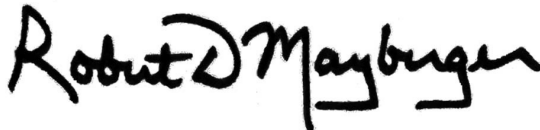
the parties' intent. The court adhered to the sentence imposed and corrected the uniform sentence and commitment order. This appeal followed.

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

Lahtinen, J.P., Stein, Garry, Lynch and Devine, 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