

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

Decided and Entered: March 2, 2017

106574

THE PEOPLE OF THE STATE OF
NEW YORK,

Respondent,

v

MEMORANDUM AND ORDER

JAMES SLATER,

Appellant.

Calendar Date: January 24, 2017

Before: Lynch, J.P., Rose, Devine, Mulvey and Aarons, JJ.

M. Joe Landry, Schenectady, for appellant.

Robert M. Carney, District Attorney, Schenectady (Peter H. Willis of counsel), for respondent.

Appeal from a judgment of the County Court of Schenectady County (Hoye, J.), rendered March 10, 2014, (1) convicting defendant upon his plea of guilty of the crime of perjury in the first degree (two counts), and (2) which revoked defendant's probation and imposed a sentence of imprisonment.

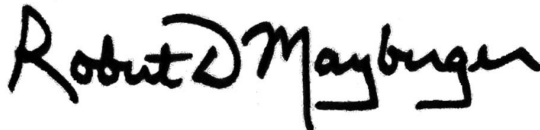
Pursuant to a negotiated agreement that included the waiver of the right to appeal, defendant pleaded guilty to perjury in the first degree (two counts) and admitted to two probation violations. County Court thereafter revoked defendant's probation and sentenced him, as a second felony offender, to two consecutive sentences of 3 to 6 years in prison for the perjury convictions and concurrent sentences of one year in jail on each of the probation violations, with credit for time served. Defendant appeals.

On appeal, defense counsel seeks to be relieved of his assignment as counsel for defendant on the ground that there are no nonfrivolous issues that can be raised on appeal. Upon our review of the record and counsel's brief, however, we perceive at least one issue of arguable merit pertaining to the imposition of consecutive sentences on the perjury convictions that justifies further examination (see People v Lewis, 90 AD3d 1312, 1313 [2011]). Accordingly, without passing judgment on the ultimate merit of this issue, we grant counsel's application for leave to withdraw and assign new counsel to address this issue and any others that the record may disclose (see People v Stokes, 95 NY2d 633 [2001]; People v Cruwys, 113 AD2d 979 [1985], lv denied 67 NY2d 650 [1986]).

Lynch, J.P., Rose, Devine, Mulvey and Aarons, JJ., concur.

ORDERED that the decision is withheld, application to be relieved of assignment granted and new counsel to be assigned.

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