

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

Decided and Entered: October 19, 2017

107070

THE PEOPLE OF THE STATE OF
NEW YORK,

Respondent,

v

MEMORANDUM AND ORDER

ROSS KRUPPENBACHER JR.,
Appellant.

Calendar Date: September 19, 2017

Before: Peters, P.J., Garry, Devine, Mulvey and Rumsey, JJ.

Eric K. Schillinger, East Greenbush, for appellant.

Joseph Stanzone, District Attorney, Catskill (Danielle D. McIntosh of counsel), for respondent.

Appeal from a judgment of the County Court of Greene County (Tailleur, J.), rendered July 23, 2013, convicting defendant upon his plea of guilty of the crime of course of sexual conduct against a child in the first degree.

Defendant was charged in a 17-count indictment with various crimes arising from his inappropriate sexual contact with a female child over the course of many years. In satisfaction of all of the charges, he pleaded guilty to course of sexual conduct against a child in the first degree and waived his right to appeal. In accordance with the terms of the plea agreement, he was sentenced to 17½ years in prison to be followed by 10 years of postrelease supervision. Defendant now appeals.

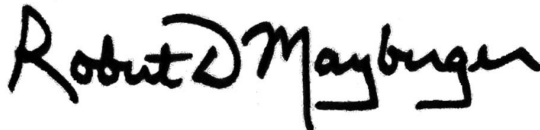
Appellate counsel seeks to be relieved of his assignment of representing defendant on the ground that there are no

nonfrivolous issues to be raised on appeal. Upon reviewing the record and counsel's brief, we disagree. We find an issue of arguable merit pertaining to the validity of the appeal waiver that may implicate other potential appealable issues, such as the severity of the sentence (see People v Lopez, 6 NY3d 248, 256 [2006]; People v Mallard, 151 AD3d 1181 [2017]; People v Bates, 139 AD3d 1110, 1111 [2016]). Accordingly, without passing judgment on the merits 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, 980 [1985], lv denied 67 NY2d 650 [1986]).

Peters, P.J., Garry, Devine, Mulvey and Rumsey, 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