

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

Decided and Entered: February 9, 2017

107159B

THE PEOPLE OF THE STATE OF
NEW YORK,

Respondent,

v

MEMORANDUM AND ORDER

TYREE I. HANKERSON,

Appellant.

Calendar Date: January 10, 2017

Before: Garry, J.P., Rose, Devine, Clark and Mulvey, JJ.

Torrance L. Schmitz, Vestal, for appellant.

Stephen K. Cornwell Jr., District Attorney, Binghamton
(Stephen Ferri of counsel), for respondent.

Garry, J.P.

Appeal from a judgment of the County Court of Broome County
(Cawley, J.), rendered December 19, 2013, convicting defendant
upon his plea of guilty of the crime of rape in the third degree.

Defendant waived indictment and pleaded guilty to rape in
the third degree as charged in a superior court information.
County Court thereafter sentenced him to 10 years of probation.
Defendant appeals.

Defendant's challenge to the voluntariness and factual
sufficiency of his plea is unpreserved for our review in the
absence of an appropriate postallocution motion (see People v
Williams, 27 NY3d 212, 219-220 [2016]; People v Lopez, 71 NY2d
662, 665-666 [1988]; People v Larock, 139 AD3d 1241, 1242 [2016],

lv denied 28 NY3d 932 [2016]). Moreover, defendant did not make any statements during the plea allocution that were inconsistent with his guilt or otherwise called into question the voluntariness of his plea so as to trigger the narrow exception to the preservation rule (see People v Forest, 141 AD3d 967, 968-969 [2016]; People v Mann, 140 AD3d 1532, 1533 [2016]). To the extent that defendant claims that he was denied the effective assistance of counsel, the claim implicates the voluntariness of the plea and is likewise unpreserved for our review for the reasons noted above (see People v Lloyd, 142 AD3d 1250, 1251 [2016], lv denied 28 NY3d 1073 [2016]; People v Dobbs, 138 AD3d 1352, 1353 [2016], lv denied 28 NY3d 929 [2016]).

Rose, Devine, Clark and Mulvey, 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