

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

Decided and Entered: September 21, 2017

107555

THE PEOPLE OF THE STATE OF
NEW YORK,

Respondent,

v

MEMORANDUM AND ORDER

EDUARDO QUINONES,

Appellant.

Calendar Date: August 7, 2017

Before: McCarthy, J.P., Garry, Clark, Mulvey and Aarons, JJ.

Henry C. Meier, Delmar, for appellant.

James R. Farrell, District Attorney, Monticello (Meagan K. Galligan of counsel), for respondent.

Appeal from a judgment of the County Court of Sullivan County (McGuire, J.), rendered April 2, 2015, convicting defendant upon his plea of guilty of the crime of burglary in the third degree.

In satisfaction of a six-count indictment, defendant pleaded guilty to burglary in the third degree pursuant to a plea agreement that included a waiver of appeal. He was thereafter sentenced, as a second felony offender, to a prison term of 2½ to 5 years, to be served consecutively to a previously imposed prison term. Defendant now appeals.

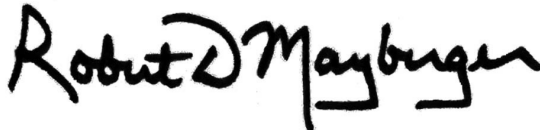
Appellate counsel seeks to be relieved of his assignment of representing defendant on the ground that there are no nonfrivolous issues that can be raised on appeal. Upon our review of the record and defense counsel's brief, however, we

perceive at least one issue of arguable merit pertaining to the procedures employed to determine defendant's predicate felony status. 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]).

McCarthy, J.P., Garry, Clark, 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