

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

Decided and Entered: May 4, 2017

107656

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THE PEOPLE OF THE STATE OF  
NEW YORK,

Respondent,

v

MEMORANDUM AND ORDER

JULIAN CAGGIANO,

Appellant.

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Calendar Date: March 29, 2017

Before: Peters, P.J., McCarthy, Egan Jr., Mulvey and Aarons, JJ.

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The Kindlon Law Firm, PLLC, Albany (Lee C. Kindlon of counsel), for appellant.

D. Holley Carnright, District Attorney, Kingston (Clifford P. Owens of counsel), for respondent.

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Peters, P.J.

Appeal from a judgment of the County Court of Ulster County (Williams, J.), rendered September 22, 2014, convicting defendant upon his plea of guilty of the crime of criminal possession of a controlled substance in the third degree.

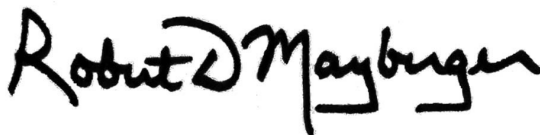
Defendant pleaded guilty to criminal possession of a controlled substance in the third degree in full satisfaction of a nine-count indictment and waived his right to appeal. County Court denied defendant's request to be adjudicated a youthful offender and sentenced defendant, in accordance with the plea agreement, to five years in prison to be followed by two years of postrelease supervision. Defendant appeals, and we affirm.

Defendant does not challenge the validity of his appeal waiver, and the plea colloquy and the written waiver demonstrate that defendant knowingly, intelligently and voluntarily waived the right to appeal his conviction and sentence (see People v White, 145 AD3d 1324, 1324-1325 [2016]; People v Taylor, 144 AD3d 1317, 1318 [2016], lvs denied 28 NY3d 1144, 1151 [2017]). As such, defendant's valid waiver of appeal precludes his contentions that County Court abused its discretion in denying him youthful offender status and that the sentence imposed was harsh and excessive (see People v Pacherille, 25 NY3d 1021, 1024 [2015]; People v Simon, 140 AD3d 1533, 1534 [2016]; People v Hernandez, 140 AD3d 1521, 1523 [2016], lv denied 28 NY3d 971 [2016]; People v Wright, 123 AD3d 1241, 1241 [2014]).

McCarthy, Egan Jr., Mulvey and Aarons, 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