

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

Decided and Entered: August 10, 2017

107662

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THE PEOPLE OF THE STATE OF  
NEW YORK,

Respondent,

v

MEMORANDUM AND ORDER

DANTE WHITE,

Appellant.

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Calendar Date: June 2, 2017

Before: Peters, P.J., Garry, Egan Jr., Rose and Mulvey, JJ.

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Susan Patnode, Rural Law Center of New York, Castleton  
(Cynthia Feathers of counsel), for appellant, and appellant  
pro se.

James M. Carusone, District Attorney, Lake George (Emilee  
B. Davenport of counsel), for respondent.

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Garry, J.

Appeal from a judgment of the County Court of Warren County  
(Hall Jr., J.), rendered May 12, 2015, convicting defendant upon  
his plea of guilty of the crime of robbery in the second degree.

Defendant was indicted and charged with burglary in the  
first degree, robbery in the first degree, robbery in the second  
degree and criminal possession of a weapon in the third degree.  
In satisfaction of the charges, defendant pleaded guilty to  
robbery in the second degree pursuant to a negotiated plea  
agreement that contemplated a sentence of 10 years in prison  
followed by five years of postrelease supervision. County Court  
advised defendant that he must cooperate with the Probation

Department in its preparation of a presentence report and that otherwise the court would not honor the sentencing agreement. At the time of sentencing, County Court found, after a hearing, that defendant had failed to cooperate with the Probation Department during its presentence investigation and, as a result, sentenced defendant to an enhanced prison term of 14 years. Defendant appeals, and we affirm.

Initially, we reject defendant's contention that his guilty plea was not knowingly, voluntarily and intelligently entered. The record reflects that County Court afforded defendant ample opportunity to discuss the plea with counsel, and explained to defendant the trial-related rights that he was foregoing by pleading guilty, as well as the consequences of the plea; defendant accepted the plea terms and freely admitted to the conduct underlying the charge (see People v Daniels, 139 AD3d 1256, 1257 [2016], lv denied 28 NY3d 1183 [2017]; People v Taylor, 135 AD3d 1237, 1237 [2016], lv denied 27 NY3d 1075 [2016]). Defendant's claim that his guilty plea was coerced is belied by the record, as the court repeatedly advised defendant that he had the right to a jury trial and did not have to plead guilty, and the court's statements advising defendant of his maximum sentence exposure were not coercive (see People v Lobaton, 140 AD3d 1534, 1535 [2016], lv denied 28 NY3d 972 [2016]; People v Lamont, 125 AD3d 1106, 1106 [2015], lvs denied 26 NY3d 967, 969 [2015]). Further, defendant assured the court that he had not been threatened or coerced into pleading guilty (see People v Gasparro, 139 AD3d 1247, 1248 [2016], lv denied 28 NY3d 929 [2016]; People v Taylor, 135 AD3d at 1237). In addition, we are not persuaded by defendant's contention that his statements during the plea allocution negated a material element of the crime or otherwise cast doubt upon his guilt.

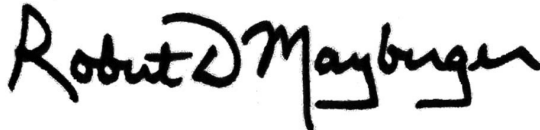
We also reject defendant's contention that County Court erred in imposing an enhanced sentence, as defendant refused to cooperate during the presentence investigation despite having been expressly advised that his failure to do so could result in an enhanced sentence (see People v Garrow, 147 AD3d 1160, 1162 [2017]; People v Terrell, 41 AD3d 1044, 1045 [2007]). Finally, in view of the violent nature of the charged conduct, defendant's lengthy criminal history and his lack of remorse, we find no

extraordinary circumstances or abuse of discretion warranting a reduction of defendant's sentence, which was less than the statutory maximum (see Penal Law §§ 70.06 [3] [c]; 160.10 [1]; People v Lord, 128 AD3d 1277, 1279 [2015]; People v Paneto, 112 AD3d 1230, 1231 [2013], lv denied 23 NY3d 1023 [2014]).

Peters, P.J., Egan Jr., Rose 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