

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

Decided and Entered: April 27, 2017

107903

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THE PEOPLE OF THE STATE OF  
NEW YORK,

Respondent,

v

MEMORANDUM AND ORDER

GEORGE F. MIDDLEMISS,  
Appellant.

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Calendar Date: February 28, 2017

Before: McCarthy, J.P., Egan Jr., Devine, Clark and Aarons, JJ.

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

Mary E. Rain, District Attorney, Canton (Matthew L. Peabody  
of counsel), for respondent.

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Appeal from a judgment of the County Court of St. Lawrence  
County (Richards, J.), rendered September 9, 2015, which revoked  
defendant's probation and imposed a sentence of imprisonment.

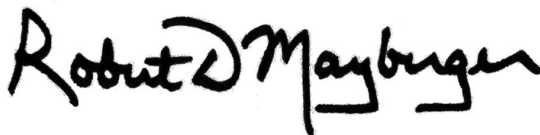
Defendant pleaded guilty to two counts of criminal contempt  
in the first degree and waived his right to appeal.  
Notwithstanding various violations of his release pending  
sentencing, defendant was sentenced, in accordance with the terms  
of the plea agreement, to six months in jail and five years of  
probation. Thereafter, defendant was charged with and admitted  
violating the terms of his probation, including by using illicit  
drugs. Ultimately, County Court revoked defendant's probation  
and resentenced him to an aggregate prison term of 2 $\frac{1}{3}$  to 7  
years. Defendant now appeals.

Initially, as defendant correctly asserts, his current challenge to the severity of the sentence imposed upon the revocation of his probation is not precluded by his waiver of appeal entered in connection with his original guilty plea and sentence (see People v Vallance, 137 AD3d 1327, 1327-1328 [2016]). Nonetheless, despite numerous opportunities, defendant displayed an inability to comply with the terms and conditions of probation. Further, upon our review of the record, including defendant's lengthy history of domestic violence, we discern no abuse of discretion nor extraordinary circumstances warranting a reduction of the sentence imposed (see People v Lawing, 110 AD3d 1354, 1356 [2013], lv denied 22 NY3d 1200 [2014]).

McCarthy, J.P., Egan Jr., Devine, Clark 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