

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

Decided and Entered: December 14, 2017

108022

THE PEOPLE OF THE STATE OF
NEW YORK,

Respondent,

v

MEMORANDUM AND ORDER

CESAR ANDUJAR,

Appellant.

Calendar Date: October 24, 2017

Before: Peters, P.J., McCarthy, Devine, Clark and Mulvey, JJ.

Jeffrey L. Zimring, Albany, for appellant, and appellant
pro se.

P. David Soares, District Attorney, Albany (Christopher D.
Horn of counsel), for respondent.

Appeal from a judgment of the County Court of Albany County
(Herrick, J.), rendered August 17, 2015, convicting defendant
upon his plea of guilty of the crime of criminal sale of a
controlled substance in the third degree.

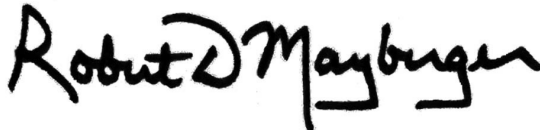
In satisfaction of a one-count indictment and other pending
charges, defendant pleaded guilty to criminal sale of a
controlled substance in the third degree. As part of the plea
agreement, he waived his right to appeal, both orally and in
writing. Although County Court advised defendant of the maximum
and minimum sentences that he could receive, no specific sentence
was promised as part of the plea agreement. County Court
ultimately sentenced defendant to 5½ years in prison and three
years of postrelease supervision. He now appeals.

Appellate counsel seeks to be relieved of his assignment of representing defendant on the ground that there are no nonfrivolous issues to be raised on appeal. Based upon our review of the record, counsel's brief and defendant's pro se brief, we agree. Therefore, the judgment is affirmed and counsel's request for leave to withdraw is granted (see People v Cruwys, 113 AD2d 979, 980 [1985], lv denied 67 NY2d 650 [1986]; see generally People v Stokes, 95 NY2d 633 [2001]).

Peters, P.J., McCarthy, Devine, Clark and Mulvey, JJ.,
concur.

ORDERED that the judgment is affirmed, and application to be relieved of assignment granted.

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