

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

Decided and Entered: November 16, 2017

108852

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THE PEOPLE OF THE STATE OF  
NEW YORK,

Respondent,

v

MEMORANDUM AND ORDER

NYGUEL WILLIAMS,

Appellant.

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Calendar Date: October 17, 2017

Before: Garry, J.P., Devine, Mulvey, Aarons and Rumsey, JJ.

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Carolyn B. George, Albany, for appellant.

P. David Soares, District Attorney, Albany (Emily Schultz of counsel), for respondent.

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Rumsey, J.

Appeal from a judgment of the County Court of Albany County (Lynch, J.), rendered July 12, 2016, convicting defendant upon his plea of guilty of the crime of criminal possession of a weapon in the second degree.

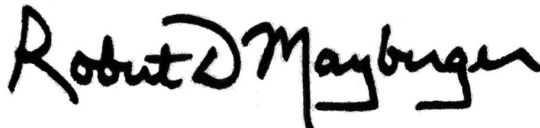
Defendant, who was 18 years old at the time of the crime, pleaded guilty to criminal possession of a weapon in the second degree, stemming from his possession and discharge of a semiautomatic weapon on the street in the City of Albany. County Court sentenced defendant to a prison term of seven years followed by five years of postrelease supervision. Defendant appeals, contending that County Court abused its discretion in denying him youthful offender status and that the sentence was harsh and excessive.

We affirm. Because defendant was convicted of an armed felony offense, as relevant here, he was required to demonstrate "mitigating circumstances that bear directly upon the manner in which the crime was committed" in order to be eligible for youthful offender status (CPL 720.10 [3] [i]; see People v Butler, 126 AD3d 1122, 1124 [2015], lv denied 25 NY3d 1199 [2015]; People v Brodhead, 106 AD3d 1337, 1337 [2013], lv denied 22 NY3d 1087 [2014]). As a review of the record reflects that defendant failed to establish the existence of any mitigating factors, we find no abuse of discretion in County Court's denial of youthful offender status (see People v Middlebrooks, 25 NY3d 516, 526-527 [2015]; People v Butler, 126 AD3d at 1124). Furthermore, we have reviewed defendant's contention that the sentence imposed, which was less than the statutory maximum (see Penal Law §§ 70.02 [3] [b]; 265.03 [3]), was harsh and excessive and find no abuse of discretion or extraordinary circumstances warranting a reduction of the sentence in the interest of justice (see People v Brodhead, 106 AD3d at 1337).

Garry, J.P., Devine, 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