

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

Decided and Entered: February 15, 2018

107800

THE PEOPLE OF THE STATE OF
NEW YORK,

Respondent,

v

MEMORANDUM AND ORDER

KEVIN C. CARTER,

Appellant.

Calendar Date: January 17, 2018

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

Norbert A. Higgins, Binghamton, for appellant.

Stephen K. Cornwell Jr., District Attorney, Binghamton
(Stephen D. Ferri of counsel), for respondent.

Devine, J.

Appeal from a judgment of the County Court of Broome County (Cawley, Jr., J.), rendered June 17, 2015, convicting defendant upon his plea of guilty of the crime of attempted criminal possession of a controlled substance in the third degree.

In satisfaction of a two-count indictment, defendant pleaded guilty to attempted criminal possession of a controlled substance in the third degree. Defendant was sentenced to a prison term of 2½ years to be followed by two years of postrelease supervision, and he now appeals.

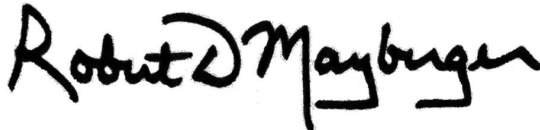
Defendant's sole contention on appeal, that his plea was not knowing, voluntary and intelligent, is unpreserved given that he failed to make an appropriate postallocation motion (see

People v Peque, 22 NY3d 168, 182 [2013]; People v White, 139 AD3d 1260, 1260 [2016]). The narrow exception to the preservation requirement is inapplicable here (see People v Conley, 135 AD3d 1238, 1239 [2016]) and, contrary to defendant's contention, corrective action in the interest of justice is not warranted.

Egan Jr., J.P., Mulvey, Aarons and Rumsey, 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