

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

Decided and Entered: January 25, 2018

108142

THE PEOPLE OF THE STATE OF
NEW YORK,

Respondent,

v

MEMORANDUM AND ORDER

DAVID A. BERRY,

Appellant.

Calendar Date: December 13, 2017

Before: Garry, P.J., Egan Jr., Lynch, Clark and Mulvey, JJ.

John R. Trice, Elmira, for appellant.

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

Appeal from a judgment of the County Court of Broome County
(Smith, J.), rendered November 16, 2015, convicting defendant
upon his plea of guilty of the crime of burglary in the first
degree (two counts).

In satisfaction of two indictments charging him with
multiple crimes, defendant pleaded guilty to two counts of
burglary in the first degree. Under the terms of the plea
agreement, he was to be sentenced as a second felony offender to
concurrent prison terms of eight years, to be followed by five
years of postrelease supervision. Defendant was sentenced in
accordance with the terms of the plea agreement and he now
appeals.

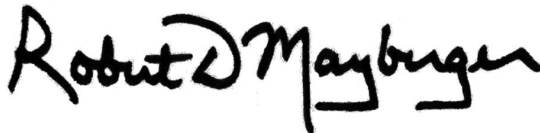
Appellate counsel seeks to be relieved of his assignment of
representing defendant on the ground that there are no

nonfrivolous issues that may be raised on appeal. Based upon our review of the record and counsel's 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]).

Garry, P.J., Egan Jr., Lynch, 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