

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

Decided and Entered: July 26, 2018

108567

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THE PEOPLE OF THE STATE OF  
NEW YORK,

Respondent,

v

MEMORANDUM AND ORDER

LAWRENCE WHITE, Also Known as  
BOY BOY,

Appellant.

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Calendar Date: June 11, 2018

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

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G. Scott Walling, Slingerlands, for appellant.

Robert M. Carney, District Attorney, Schenectady (Tracey A. Brunecz of counsel), for respondent.

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Appeal from a judgment of the County Court of Schenectady County (Loyola, J.), rendered March 18, 2016, convicting defendant upon his plea of guilty of the crimes of attempted criminal possession of a weapon in the second degree and perjury in the first degree.

In satisfaction of two indictments, defendant pleaded guilty to attempted criminal possession of a weapon in the second degree and perjury in the first degree and purportedly waived his right to appeal. County Court thereafter imposed the agreed-upon aggregate sentence of 6½ years in prison, to be followed by five years of postrelease supervision. Defendant now appeals.

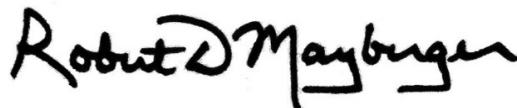
Initially, we agree with defendant that he did not knowingly, intelligently and voluntarily waive the right to

appeal. County Court failed to explain to him that the right to appeal is separate and distinct from the rights automatically forfeited by pleading guilty (see People v Lopez, 6 NY3d 248, 256 [2006]; People v Meddaugh, 150 AD3d 1545, 1546 [2017]). Further, although defendant executed two written waivers of appeal, County Court did not "ensure that defendant understood the content or consequences of the appeal waiver[s]" (People v Williams, 132 AD3d 1155, 1155 [2015], lv denied 27 NY3d 1157 [2016]; accord People v Aubain, 152 AD3d 868, 869 [2017]). While the invalid appeal waivers do not preclude defendant's challenge to his sentence as harsh and excessive, the sentence was in accordance with the plea agreement and we find no abuse of discretion or extraordinary circumstances warranting a reduction thereof (see People v Wolcott, 154 AD3d 1001, 1002 [2017], lv denied \_\_\_ NY3d \_\_\_ [May 14, 2018]; People v Langley, 111 AD3d 1023, 1024 [2013]).

Garry, P.J., Egan Jr., Mulvey, Aarons and Rumsey, JJ.,  
concur.

ORDERED that the judgment is affirmed.

ENTER:



Robert D. Mayberger  
Clerk of the Court