

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

Decided and Entered: October 4, 2018

108696

THE PEOPLE OF THE STATE OF
NEW YORK,

Appellant,

v

MEMORANDUM AND ORDER

LYNN E. HATCH,

Respondent.

Calendar Date: September 4, 2018

Before: McCarthy, J.P., Devine, Aarons, Rumsey and
Pritzker, JJ.

John A. Cirando, Syracuse, for appellant.

William G. Gabor, District Attorney, Wampsville (Elizabeth
S. Healy of counsel), for respondent.

Aarons, J.

Appeal from a judgment of the County Court of Madison
County (O'Sullivan, J.), rendered August 1, 2016, convicting
defendant upon his plea of guilty of the crime of criminal
sexual act in the second degree (two counts).

Defendant was indicted and charged with two counts of
criminal sexual act in the second degree. The charges stemmed
from two instances of inappropriate sexual contact – one in
October 2015 and the other in December 2015 – between defendant
and a 19-year-old developmentally disabled man. Defendant
ultimately pleaded guilty to the entire indictment with the

understanding that there would be no sentencing commitment. County Court thereafter sentenced defendant to prison terms of 3½ years for each conviction followed by a period of postrelease supervision, the sentences to run consecutively. This appeal by defendant ensued.

We affirm. Defendant's challenge to the voluntariness and factual sufficiency of his guilty plea is unpreserved for our review absent evidence of an appropriate postallocution motion (see People v Muller, 159 AD3d 1232, 1232 [2018]; People v Bailey, 158 AD3d 948, 948 [2018]; People v Hankerson, 147 AD3d 1153, 1153 [2017], lv denied 29 NY3d 998 [2017]). Further, "inasmuch as defendant did not make any statements during the course of the plea colloquy that cast doubt upon his guilt or otherwise called into question the voluntariness of his plea, the narrow exception to the preservation requirement is inapplicable" (People v White, 156 AD3d 1249, 1250 [2017], lv denied 31 NY3d 988 [2018]; see People v Larock, 139 AD3d 1241, 1242 [2016], lv denied 28 NY3d 932 [2016]; People v Cruz, 104 AD3d 1022, 1023 [2013]). Finally, a review of the sentencing minutes confirms that County Court took into consideration the nature of the crime and other relevant sentencing factors, including defendant's prior criminal history and professed remorse, and we find no extraordinary circumstances or abuse of discretion warranting a reduction of the sentence imposed in the interest of justice (see People v Tetreault, 131 AD3d 1327, 1328 [2015]; People v Harden, 6 AD3d 987, 987-988 [2004]).

McCarthy, J.P., Devine, Rumsey and Pritzker, 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