

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

Decided and Entered: May 23, 2019

109082

THE PEOPLE OF THE STATE OF
NEW YORK,

Respondent,

v

MEMORANDUM AND ORDER

ARDELL J. HOLMES,

Appellant.

Calendar Date: April 19, 2019

Before: Egan Jr., J.P., Clark, Devine, Aarons and Pritzker, JJ.

Kevin A. Jones, Ithaca, for appellant.

Patrick A. Perfetti, District Attorney, Cortland
(Elizabeth McGrath of counsel), for respondent.

Appeal from a judgment of the County Court of Cortland County (Dooley, J.), rendered September 26, 2016, convicting defendant upon his plea of guilty of the crime of criminal sale of a controlled substance in the third degree.

In satisfaction of a two-count indictment, defendant pleaded guilty to criminal sale of a controlled substance in the third degree and waived his right to appeal. Under the terms of the plea agreement, defendant was sentenced as a second felony offender to a prison term of 12 years, followed by three years of postrelease supervision, to be served concurrently with another felony conviction. Defendant appeals.

Appellate counsel seeks to be relieved of his assignment of representing defendant on the ground that there are no nonfrivolous issues to 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 Beaty, 22 NY3d 490 [2014]; People v Stokes, 95 NY2d 633 [2001]).

Egan Jr., J.P., Clark, Devine, Aarons and Pritzker, 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