

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

Decided and Entered: December 5, 2019

109363

THE PEOPLE OF THE STATE OF
NEW YORK,

Respondent,

v

MEMORANDUM AND ORDER

ANTOINE RAY,

Appellant.

Calendar Date: November 8, 2019

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

James R. McGinn, Delmar, for appellant.

P. David Soares, District Attorney, Albany (Christopher D. Horn of counsel), for respondent.

Appeal from a judgment of the County Court of Albany County (Lynch, J.), rendered January 18, 2017, convicting defendant upon his plea of guilty of the crime of attempted assault in the first degree.

In satisfaction of a two-count indictment, defendant pleaded guilty to attempted assault in the first degree in exchange for a prison term of 10 years followed by five years of postrelease supervision. As part of the plea agreement, defendant waived his right to appeal. County Court sentenced him, as an admitted second felony offender, to the contemplated term of imprisonment, and this appeal ensued.

The sole argument raised by defendant upon appeal – that the agreed-upon sentence imposed is harsh and excessive – is precluded by defendant's unchallenged waiver of the right to appeal (see People v Clerveau, 174 AD3d 1066, 1068 [2019], lv denied 34 NY3d 949 [2019]; People v Perez, 171 AD3d 1309, 1309 [2019]; People v Allen, 165 AD3d 1348, 1348 [2018]). Accordingly, the judgment of conviction is affirmed.

Garry, P.J., Egan Jr., Mulvey 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