

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

Decided and Entered: June 27, 2019

109411

THE PEOPLE OF THE STATE OF
NEW YORK,

Respondent,

v

MEMORANDUM AND ORDER

EL'SHAMIR MERRITT,

Appellant.

Calendar Date: May 24, 2019

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

Thomas F. Garner, Middleburgh, 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 March 31, 2017, convicting
defendant upon his plea of guilty of the crime of attempted
burglary in the second degree.

In satisfaction of a three-count indictment and other
outstanding charges, defendant pleaded guilty to attempted
burglary in the second degree and waived his right to appeal,
both orally and in writing. In accordance with the terms of the
plea agreement, he was sentenced to two years in prison followed
by three years of postrelease supervision. Defendant 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 Beaty, 22 NY3d 490 [2014]; People v Stokes, 95 NY2d 633 [2001]).

Egan Jr., J.P., Mulvey, Devine, Rumsey 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