

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

Decided and Entered: April 30, 2020

109680

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THE PEOPLE OF THE STATE OF  
NEW YORK,

Respondent,

v

MEMORANDUM AND ORDER

ROBERT CAROTA,

Appellant.

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Calendar Date: March 27, 2020

Before: Garry, P.J., Egan Jr., Lynch, Mulvey and Reynolds  
Fitzgerald, JJ.

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Lisa A. Burgess, Indian Lake, for appellant.

J. Anthony Jordan, District Attorney, Fort Edward (Taylor  
Fitzsimmons of counsel), for respondent.

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Egan Jr., J.

Appeal from a judgment of the County Court of Washington  
County (McKeighan, J.), rendered July 14, 2017, convicting  
defendant upon his plea of guilty of the crime of criminal  
contempt in the first degree.

Defendant was charged in an indictment with two counts of  
criminal contempt in the first degree after he violated an order  
of protection. He entered an Alford plea to one count of  
criminal contempt in the first degree in satisfaction thereof.  
In accordance with the terms of the plea agreement, he was

sentenced as a second felony offender to 1½ to 3 years in prison. He appeals.

Defendant contends that the indictment is jurisdictionally defective because it did not set forth an essential factual element of criminal contempt in the first degree, namely, that his failure to comply with the court order did not involve or grow out of a labor dispute (see Penal Law §§ 215.50 [3]; 215.51 [c]). It is well settled, however, that the failure to include such language in the charging instrument does not render it jurisdictionally defective (see People v Santana, 7 NY3d 234, 237 [2006]; People v McPherson, 32 AD3d 558, 558-559 [2006], lv denied 7 NY3d 868 [2006]). Therefore, we find no reason to disturb the judgment of conviction.

Garry, P.J., Lynch, Mulvey and Reynolds Fitzgerald, 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