

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

Decided and Entered: November 5, 2020

110640

THE PEOPLE OF THE STATE OF
NEW YORK,

Respondent,

v

MEMORANDUM AND ORDER

DANIEL NYE,

Appellant.

Calendar Date: October 9, 2020

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

Craig Meyerson, Peru, for appellant.

Letitia James, Attorney General, New York City (Lisa E.
Fleischmann of counsel), for respondent.

Appeal from a judgment of the County Court of St. Lawrence
County (Richards, J.), rendered August 20, 2018, convicting
defendant upon his plea of guilty of the crime of attempted
conspiracy in the second degree.

Defendant was charged in an indictment with conspiracy in
the second degree in connection with his role in distributing
heroin and cocaine.¹ Pursuant to a negotiated agreement,
defendant pleaded guilty to the reduced charge of attempted
conspiracy in the second degree, admitting that he had

¹ This charge was the first count of an 86-count
indictment involving a total of 57 codefendants.

distributed drugs given to him by other coconspirators. As required by the terms of the plea agreement, defendant waived his right to appeal and executed a written waiver of appeal after reviewing it with counsel. Defendant was advised of the maximum potential sentence that could be imposed, although there was no sentencing promise and sentencing was expressly left to the discretion of County Court. The court thereafter sentenced defendant to a prison term of 2 to 6 years. Defendant appeals.

We affirm. Defendant's unchallenged oral and written appeal waiver precludes his sole contention on appeal that the sentence imposed, though lawful, is harsh and excessive (see People v Lopez, 6 NY3d 248, 255-256 [2006]; People v King, 185 AD3d 1090, 1091 [2020]; People v Allen, 181 AD3d 1093, 1094 [2020]; People v Brickhouse, 181 AD3d 1057, 1057 [2020], lv denied 35 NY3d 1025 [2020]). Accordingly, the judgment of conviction is affirmed.

Garry, P.J., Egan Jr., Mulvey, Reynolds Fitzgerald and Colangelo, 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