

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

Decided and Entered: March 16, 2017

106740

THE PEOPLE OF THE STATE OF
NEW YORK,

Respondent,

v

MEMORANDUM AND ORDER

FRANCIS JOSEPH ZAVARO,
Appellant.

Calendar Date: January 24, 2017

Before: Egan Jr., J.P., Lynch, Rose, Clark and Mulvey, JJ.

Cheryl L. Sovern, Clifton Park, for appellant.

Kathleen B. Hogan, District Attorney, Lake George, for respondent.

Appeal from a judgment of the County Court of Washington County (McKeighan, J.), rendered July 19, 2013, convicting defendant upon his plea of guilty of the crime of attempted murder in the second degree.

In 1985, defendant was convicted of murder in the second degree and robbery in the first degree in connection with the brutal beating and stabbing death of an intoxicated man from whom he stole \$13. Following his conviction, he was sentenced to a maximum of 25 years to life in prison. While incarcerated at Great Meadow Correctional Facility, defendant became angry at his cellmate because the cellmate did not disclose his prior rape conviction, and defendant felt that the cellmate was making sexual advances toward him. Defendant initiated a physical altercation during which he knocked the cellmate to the floor, bound his hands behind his back and, while straddling the

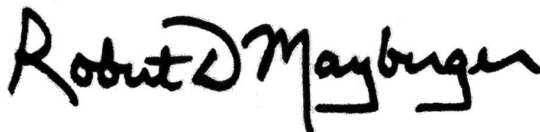
cellmate's back, cut his face and neck with a razor blade, inflicting significant wounds, before alerting correction officers. As a result of this incident, defendant was charged with a number of crimes and ultimately pleaded guilty to attempted murder in the second degree. In accordance with the terms of the plea agreement, he was sentenced as a second violent felony offender to 16 years in prison, to be followed by five years of postrelease supervision, which sentence was to run consecutively to his underlying sentence. He now appeals.

Defendant's sole contention is that the sentence is harsh and excessive. We disagree. Defendant has a history of violent and disturbing criminal behavior, and his callous disregard for human life is evidenced by his conduct and the statements he made after he attacked his cellmate. In view of this, and given that defendant agreed to the sentence as part of the plea agreement, we find no extraordinary circumstances or any abuse of discretion warranting a reduction of the sentence in the interest of justice (see People v Townsend, 144 AD3d 1196, 1197 [2016]; People v Martin, 136 AD3d 1218, 1220 [2016], lv denied 28 NY3d 972 [2016]).

Egan Jr., J.P., Lynch, Rose, Clark and Mulvey, 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