

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

Decided and Entered: May 18, 2017

106901

THE PEOPLE OF THE STATE OF
NEW YORK,

Respondent,

v

MEMORANDUM AND ORDER

FATEEN AKBAR,

Appellant.

Calendar Date: April 4, 2017

Before: Peters, P.J., McCarthy, Rose, Clark and Mulvey, JJ.

Barrett D. Mack, Albany, for appellant.

D. Holley Carnright, District Attorney, Kingston (Joan Gudesblatt Lamb of counsel), for respondent.

Appeal from a judgment of the County Court of Ulster County (Williams, J.), rendered May 30, 2014, convicting defendant upon his plea of guilty of the crime of criminal sale of a controlled substance in the third degree.

In satisfaction of a six-count indictment¹ stemming from the sale of heroin on three occasions, defendant pleaded guilty to criminal sale of a controlled substance in the third degree as charged in the first count. Pursuant to the plea agreement, defendant waived his right to appeal and signed a written waiver in open court and, in exchange, County Court agreed to impose a prison term of seven years with three years of postrelease

¹ The indictment was amended during the plea allocution to correct the spelling of defendant's last name.

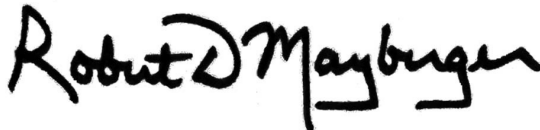
supervision. The court thereafter exercised its discretion and sentenced defendant, as an admitted second felony offender, to six years in prison with three years of postrelease supervision, and ordered that he make restitution. Defendant now appeals.

Appellate counsel seeks to be relieved of his assignment of representing defendant on the ground that there are no nonfrivolous issues to 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 Stokes, 95 NY2d 633 [2001]).

Peters, P.J., McCarthy, Rose, Clark and Mulvey, 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