

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

Decided and Entered: September 14, 2017

107682

THE PEOPLE OF THE STATE OF
NEW YORK,

Respondent,

v

MEMORANDUM AND ORDER

SCOTT R. RABINE,

Appellant.

Calendar Date: August 24, 2017

Before: McCarthy, J.P., Garry, Rose, Devine and Clark, JJ.

Hug Law, PLLC, Albany (Matthew C. Hug of counsel), for appellant.

J. Anthony Jordan, District Attorney, Fort Edward (Joseph A. Frandino of counsel), for respondent.

Rose, J.

Appeal from a judgment of the County Court of Warren County (Hall Jr., J.), rendered April 24, 2015, convicting defendant upon his plea of guilty of the crimes of criminal sale of a controlled substance in the third degree and grand larceny in the third degree.

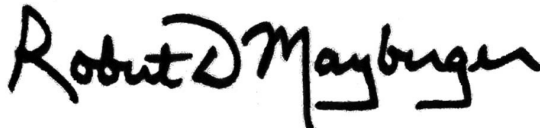
In full satisfaction of a 10-count indictment, defendant pleaded guilty to criminal sale of a controlled substance in the third degree and grand larceny in the third degree and waived his right to appeal. County Court thereafter sentenced him, as a second felony offender, to an aggregate prison term of 10 years, to be followed by three years of postrelease supervision. Defendant now appeals.

We affirm. Contrary to defendant's contention, his waiver of the right to appeal was knowing, intelligent and voluntary. County Court distinguished the right to appeal from the rights automatically forfeited by a guilty plea and defendant confirmed his understanding of the waiver. Defendant also signed a written waiver in open court after discussing it with counsel. Accordingly, we conclude that defendant validly waived the right to appeal (see People v Lopez, 6 NY3d 248, 256 [2006]; People v Oddy, 144 AD3d 1322, 1322-1323 [2016]; People v Hernandez, 140 AD3d 1521, 1522 [2016], lv denied 28 NY3d 971 [2016]). Defendant's remaining contention, that his sentence is harsh and excessive, is precluded by his valid appeal waiver (see People v McCall, 146 AD3d 1156, 1157 [2017], lvs denied 29 NY3d 1033, 1034 [2017]; People v Golgoski, 145 AD3d 1195, 1196 [2016], lv denied 28 NY3d 1184 [2017]).

McCarthy, J.P., Garry, Devine and Clark, 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