

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

Decided and Entered: March 30, 2017

107722

THE PEOPLE OF THE STATE OF
NEW YORK,

Respondent,

v

MEMORANDUM AND ORDER

MELISSA K. BARTLETT,

Appellant.

Calendar Date: February 23, 2017

Before: Peters, P.J., McCarthy, Garry, Rose and Aarons, JJ.

Brandon E. Boutelle, Public Defender, Elizabethtown, for
appellant.

Kristy L. Sprague, District Attorney, Elizabethtown (James
E. Martineau Jr. of counsel), for respondent.

Aarons, J.

Appeal from a judgment of the County Court of Essex County
(Meyer, J.), rendered April 30, 2015, which revoked defendant's
probation and imposed a sentence of imprisonment.

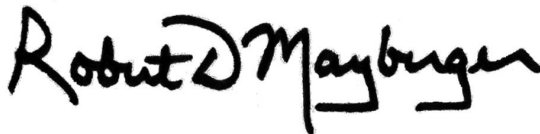
In 2012, defendant pleaded guilty to aggravated unlicensed
operation of a motor vehicle in the first degree and aggravated
driving while intoxicated, and was sentenced to five years of
probation. In 2014, defendant admitted to violating a condition
of her probation and waived her right to appeal. County Court
revoked defendant's probation and imposed a sentence of 1½ to 4
years in prison. Defendant appeals.

We are unpersuaded by defendant's contention that her waiver of the right to appeal at the time she admitted to violating probation is invalid, as the record reflects that the appeal waiver was knowingly, voluntarily and intelligently entered. Specifically, the record reflects that County Court adequately explained, and defendant understood, the nature of the appeal waiver and that it was separate and distinct from the rights forfeited by her admission to violating probation (see People v Lopez, 6 NY3d 248, 256-257 [2006]; People v Brice, 146 AD3d 1152, 1153 [2017]). As such, the valid appeal waiver precludes defendant's challenge to the severity of the sentence imposed (see People v Handly, 122 AD3d 1007, 1008 [2014]).

Peters, P.J., McCarthy, Garry and Rose, 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