

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

Decided and Entered: April 27, 2017

107903

THE PEOPLE OF THE STATE OF
NEW YORK,

Respondent,

v

MEMORANDUM AND ORDER

GEORGE F. MIDDLEMISS,
Appellant.

Calendar Date: February 28, 2017

Before: McCarthy, J.P., Egan Jr., Devine, Clark and Aarons, JJ.

Susan Patnode, Rural Law Center of New York, Castleton
(Cynthia Feathers of counsel), for appellant.

Mary E. Rain, District Attorney, Canton (Matthew L. Peabody
of counsel), for respondent.

Appeal from a judgment of the County Court of St. Lawrence
County (Richards, J.), rendered September 9, 2015, which revoked
defendant's probation and imposed a sentence of imprisonment.

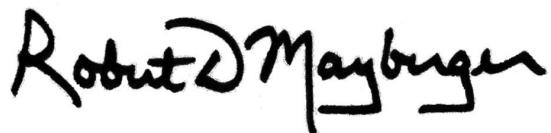
Defendant pleaded guilty to two counts of criminal contempt
in the first degree and waived his right to appeal.
Notwithstanding various violations of his release pending
sentencing, defendant was sentenced, in accordance with the terms
of the plea agreement, to six months in jail and five years of
probation. Thereafter, defendant was charged with and admitted
violating the terms of his probation, including by using illicit
drugs. Ultimately, County Court revoked defendant's probation
and resentenced him to an aggregate prison term of 2½ to 7
years. Defendant now appeals.

Initially, as defendant correctly asserts, his current challenge to the severity of the sentence imposed upon the revocation of his probation is not precluded by his waiver of appeal entered in connection with his original guilty plea and sentence (see People v Vallance, 137 AD3d 1327, 1327-1328 [2016]). Nonetheless, despite numerous opportunities, defendant displayed an inability to comply with the terms and conditions of probation. Further, upon our review of the record, including defendant's lengthy history of domestic violence, we discern no abuse of discretion nor extraordinary circumstances warranting a reduction of the sentence imposed (see People v Lawing, 110 AD3d 1354, 1356 [2013], lv denied 22 NY3d 1200 [2014]).

McCarthy, J.P., Egan Jr., Devine, Clark and Aarons, JJ., concur.

ORDERED that the judgment is affirmed.

ENTER:



Robert D. Mayberger
Clerk of the Court