

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

Decided and Entered: March 23, 2017

107950

THE PEOPLE OF THE STATE OF
NEW YORK,

Respondent,

v

MEMORANDUM AND ORDER

WALTER L. BLAIR,

Appellant.

Calendar Date: January 24, 2017

Before: Peters, P.J., Garry, Lynch, Devine and Mulvey, JJ.

G. Scott Walling, Schenectady, for appellant.

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

Appeal from a judgment of the County Court of Essex County (Meyer, J.), rendered August 21, 2014, convicting defendant upon his plea of guilty of the crime of criminal contempt in the first degree.

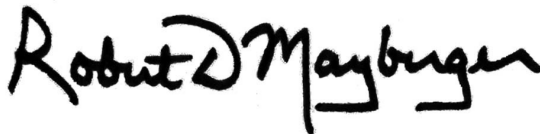
Defendant pleaded guilty to criminal contempt in the first degree and waived his right to appeal. The plea agreement included a sentencing commitment by County Court of six months in jail and five years of probation. However, upon learning that defendant had been arrested on an additional charge, the court advised defendant that it would not abide by the sentence commitment, and afforded him an opportunity to withdraw his plea, which defendant declined. The court subsequently sentenced defendant to the maximum prison term of 1½ to 4 years. Defendant appeals.

Defendant contends that County Court erred in failing to expunge from the presentence investigation report information that defendant claimed was improperly included, as well as relying on such impermissible information in imposing sentence. The record reflects that defendant's waiver of the right to appeal, which he does not challenge, was knowing, voluntary and intelligent. Accordingly, his challenge is precluded by the valid waiver of the right to appeal (see People v Joslin, 130 AD3d 1093, 1093-1094 [2015], lv denied 26 NY3d 1009 [2015]; People v Abdul, 112 AD3d 644, 645 [2013], lv denied 22 NY3d 1136 [2014]).

Peters, P.J., Garry, Lynch, Devine 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