

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

Decided and Entered: September 27, 2018

107929

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THE PEOPLE OF THE STATE OF  
NEW YORK,

Respondent,

v

MEMORANDUM AND ORDER

JAMELL MODEST,

Appellant.

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Calendar Date: August 6, 2018

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

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Terrence M. Kelly, Albany, for appellant.

Robert M. Carney, District Attorney, Schenectady (Peter H. Willis of counsel), for respondent.

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Appeal from a judgment of the Supreme Court (Coccoma, J.), rendered September 28, 2015 in Schenectady County, convicting defendant upon his plea of guilty of the crimes of murder in the second degree and reckless endangerment in the first degree.

Defendant fatally shot his former girlfriend in the presence of their infant son and was charged in an indictment with multiple crimes. In satisfaction thereof, he pleaded guilty to murder in the second degree and reckless endangerment in the first degree and waived his right to appeal, both orally and in writing. In accordance with the terms of the plea agreement, he was sentenced as a second felony offender to concurrent prison terms of 23 years to life on the murder

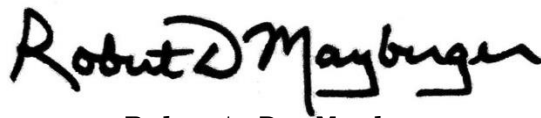
conviction and 3½ to 7 years on the reckless endangerment conviction. He appeals.

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 Beaty, 22 NY3d 490, 492-493 [2014]; People v Stokes, 95 NY2d 633 [2001]).

McCarthy, J.P., Egan Jr., Devine, Aarons and Rumsey, 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