

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

Decided and Entered: April 12, 2018

107967

THE PEOPLE OF THE STATE OF
NEW YORK,

Respondent,

v

MEMORANDUM AND ORDER

MICHAEL J. BROHEL SR.,
Appellant.

Calendar Date: March 2, 2018

Before: Garry, P.J., Lynch, Clark, Mulvey and Aarons, JJ.

Teresa C. Mulliken, Harpersfield, for appellant.

Stephen K. Cornwell Jr., District Attorney, Binghamton
(Stephen D. Ferri of counsel), for respondent.

Appeal from a judgment of the County Court of Broome County
(Smith, J.), rendered August 27, 2015, which revoked defendant's
probation and imposed a sentence of imprisonment.

In October 2013, defendant was sentenced to five years of
probation upon his conviction of attempted burglary in the second
degree. In February 2014, defendant was charged with violating
the terms of his probation by failing to complete a substance
abuse treatment program and by failing to maintain contact with
his probation officer, and an arrest warrant was issued.
Following his arrest, defendant admitted to violating the terms
of his probation and sentencing was adjourned to provide him with
another opportunity to complete substance abuse treatment. In
November 2014, another arrest warrant was issued for defendant,
who had again failed to maintain contact with his probation
officer and complete a substance abuse treatment program. He was

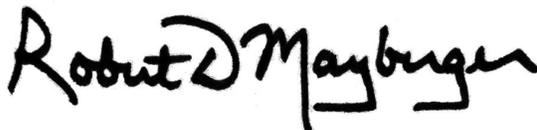
arrested in January 2015 and sentencing was once again adjourned. County Court warned defendant that any further failures to comply with the terms of his probation would result in a prison sentence. In May 2015, defendant again left a substance abuse treatment program prior to completion and absconded from probation supervision. Defendant was arrested in Pennsylvania in July 2015, and County Court thereafter sentenced defendant to three years in prison, to be followed by three years of postrelease supervision. Defendant now appeals.

Defendant's sole contention is that the sentence is harsh and excessive. We disagree. Defendant was provided several opportunities to avoid a period of imprisonment, but he exhibited a repeated unwillingness to comply with the terms of his probation, despite being advised of the consequences thereof. Given that the record discloses neither the presence of extraordinary circumstances nor an abuse of discretion warranting a reduction of the sentence in the interest of justice, it will not be disturbed (see People v Morgan, 144 AD3d 1337, 1337 [2016] People v Barrett, 39 AD3d 1088, 1089 [2007], lv denied 9 NY3d 863 [2007]).

Garry, P.J., Lynch, Clark, Mulvey and Aarons, 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