

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

Decided and Entered: March 29, 2018

108050

THE PEOPLE OF THE STATE OF
NEW YORK,

Respondent,

v

MEMORANDUM AND ORDER

RYAN A. ,

Appellant.

Calendar Date: February 21, 2018

Before: McCarthy, J.P., Lynch, Devine, Clark and Pritzker, JJ.

Adam W. Toraya, Albany, for appellant.

Craig P. Carriero, District Attorney, Malone (Jennifer M. Hollis of counsel), for respondent.

Lynch, J.

Appeal from a judgment of the County Court of Franklin County (Main Jr., J.), rendered November 2, 2015, which revoked defendant's probation and imposed a sentence of incarceration.

Defendant waived indictment and agreed to be prosecuted by a superior court information charging him with arson in the fourth degree and criminal mischief in the fourth degree. He pleaded guilty to both crimes and executed a written waiver of his right to appeal. He was adjudicated a youthful offender and was sentenced to a five-year period of probation.

Defendant was subsequently charged with violating the terms of his probation. He admitted to certain violations and orally waived his right to appeal. His probation was revoked and he was

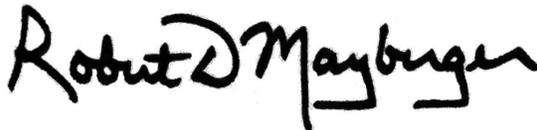
sentenced to concurrent terms of 365 days in jail on the underlying crimes, to run consecutively to the sentences imposed on the two convictions of criminal contempt in the second degree that were pending in local criminal courts.¹ Defendant now appeals.

Defendant's sole contention is that the sentence imposed upon the revocation of his probation is harsh and excessive, and that this claim is not precluded because his appeal waiver was invalid. Because defendant has completed serving his jail sentence and is no longer incarcerated, his challenge to the sentence is moot (see People v Toft, 156 AD3d 1234, 1235 [2017]; People v Cancer, 132 AD3d 1019, 1020 [2015]; People v Rodwell, 122 AD3d 1065, 1068 [2014], lv denied 25 NY3d 1170 [2015]).

McCarthy, J.P., Devine, Clark and Pritzker, JJ., concur.

ORDERED that the judgment is affirmed.

ENTER:



Robert D. Mayberger
Clerk of the Court

¹ Defendant was sentenced to consecutive terms of 365 days and 30 days in jail for these crimes.