

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

Decided and Entered: March 15, 2018

108170

THE PEOPLE OF THE STATE OF
NEW YORK,

Respondent,

MEMORANDUM AND ORDER

v

BASHEEM BENNETT,

Appellant.

Calendar Date: January 23, 2018

Before: Lynch, J.P., Mulvey, Aarons, Rumsey and Pritzker, JJ.

Marshall Nadan, Kingston, for appellant.

D. Holley Carnright, District Attorney, Kingston (Joan Gudesblatt Lamb of counsel), for respondent.

Appeal from a judgment of the County Court of Ulster County (Williams, J.), rendered November 13, 2015, convicting defendant upon his plea of guilty of the crime of murder in the second degree.

In satisfaction of a three-count indictment, defendant pleaded guilty to murder in the second degree and waived his right to appeal. The charges stemmed from defendant entering a night club and fatally shooting the victim, whom he believed had killed a friend, and seriously injuring another person. Pursuant to the terms of the plea agreement, defendant agreed to, among other things, testify at the trial of anyone else involved in the crime in exchange for a sentence of 18 years to life in prison. Thereafter, County Court determined that defendant violated that condition by invoking his Fifth Amendment right and refusing to

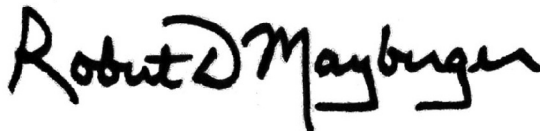
testify at a subsequent trial. The court, after confirming that defendant did not wish to move to withdraw his plea, sentenced defendant to 25 years to life in prison. Defendant appeals.

Defendant's sole contention – that the sentence imposed was harsh and excessive – is precluded by his unchallenged and valid waiver of the right to appeal (see People v Lopez, 6 NY3d 248, 256 [2006]; People v Brasmeister, 136 AD3d 1122, 1123 [2016], lv denied 27 NY3d 993 [2016]).

Lynch, J.P., Mulvey, Aarons, Rumsey and Pritzker, 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