

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

Decided and Entered: September 13, 2018

108359

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THE PEOPLE OF THE STATE OF  
NEW YORK,

Respondent,

v

MEMORANDUM AND ORDER

SHAWN McMILLIAN,

Appellant.

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Calendar Date: June 11, 2018

Before: Garry, P.J., McCarthy, Clark, Aarons and Rumsey, JJ.

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Christine Argentina, White Plains, for appellant.

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

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Appeal from a judgment of the County Court of Ulster County (Williams, J.), rendered March 8, 2016, convicting defendant upon his plea of guilty of the crime of grand larceny in the third degree.

Defendant was charged in a five-count indictment with two counts of grand larceny in the third degree and other crimes stemming from his theft of credit card information from multiple victims and use thereof to make fraudulent charges. In satisfaction of all charges, defendant accepted a plea agreement whereby he pleaded guilty to grand larceny in the third degree under count 1 of the indictment and, during the plea colloquy, he waived his right to appeal and signed a written appeal waiver in open court. Consistent with that plea agreement, defendant

was sentenced as an admitted second felony offender to a prison term of 3 to 6 years and ordered to pay restitution. Defendant now appeals.

Appellate counsel seeks to be relieved of her 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 Stokes, 95 NY2d 633 [2001]).

Garry, P.J., McCarthy, Clark, 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