

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

Decided and Entered: March 8, 2018

108432

THE PEOPLE OF THE STATE OF
NEW YORK,

Respondent,

v

MEMORANDUM AND ORDER

TERRELL CLARK,

Appellant.

Calendar Date: January 23, 2018

Before: Egan Jr., J.P., Lynch, Clark, Mulvey and Rumsey, JJ.

G. Scott Walling, Slingerlands, for appellant.

J. Anthony Jordan, District Attorney, Fort Edward (Joseph A. Frandino of counsel), for respondent.

Appeal from a judgment of the County Court of Washington County (McKeighan, J.), rendered February 19, 2016, convicting defendant upon his plea of guilty of the crime of attempted assault in the second degree.

While he was incarcerated, defendant engaged in a physical altercation with a correction officer and, as a result, was charged in an indictment with two counts of assault in the second degree. He pleaded guilty to attempted assault in the second degree in satisfaction thereof. In accordance with the terms of the plea agreement, defendant was sentenced as a second felony offender to 2 to 4 years in prison, to run consecutively to the sentence that he was then serving. He now appeals.

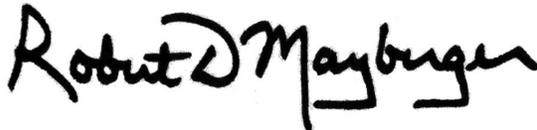
Defendant's sole contention is that the sentence is harsh and excessive. We disagree. Defendant has a lengthy criminal

record and consented to the sentence as part of the negotiated plea agreement. In addition, the underlying facts reveal that defendant – while incarcerated at a state correctional facility – initiated a violent physical attack upon a correction officer. In view of this, we find no extraordinary circumstances or any abuse of discretion warranting a reduction of the sentence in the interest of justice (see People v Pellechia, 85 AD3d 1494, 1494 [2011]; People v Smith, 276 AD2d 833, 833 [2000]; People v Biggs, 268 AD2d 800, 800 [2000]).

Egan Jr., J.P., Lynch, Clark, Mulvey and Rumsey, 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