

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

Decided and Entered: October 4, 2018

108700

THE PEOPLE OF THE STATE OF
NEW YORK,

Respondent,

v

MEMORANDUM AND ORDER

GORDAN LEW,

Appellant.

Calendar Date: September 12, 2018

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

Tracy E. Steeves, Kingston, for appellant.

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

McCarthy, J.

Appeal from a judgment of the County Court of Ulster County (Williams, J.), rendered April 12, 2016, convicting defendant upon his plea of guilty of the crimes of aggravated unlicensed operation of a motor vehicle in the first degree and driving while ability impaired by the combined influence of alcohol and drugs.

Defendant pleaded guilty to aggravated unlicensed operation of a motor vehicle in the first degree and driving while ability impaired by the combined influence of alcohol and drugs and waived his right to appeal. County Court thereafter

imposed the agreed-upon aggregate sentence of 1 to 3 years in prison. Defendant now appeals.

We affirm. Defendant knowingly, intelligently and voluntarily waived the right to appeal his conviction and sentence (see People v Lopez, 6 NY3d 248, 256-257 [2006]; People v Royal, 161 AD3d 1217, 1217 [2018]). Defendant's challenge to the severity of his sentence is precluded by his valid appeal waiver (see People v Quinones, 160 AD3d 1304, 1305 [2018], lv denied 31 NY3d 1152 [2018]; People v Rutigliano, 159 AD3d 1280, 1280 [2018], lv denied 31 NY3d 1121 [2018]). As to defendant's claim of ineffective assistance of counsel, his "challenges to counsel's motion practice and discovery efforts were forfeited by his guilty plea" (People v Trombley, 91 AD3d 1197, 1201 [2012], lv denied 21 NY3d 914 [2013]; see People v Ward, 161 AD3d 1488, 1489 [2018], lv denied ___ NY3d ___ [Aug. 21, 2018]).

Garry, P.J., Lynch, Aarons 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