

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

Decided and Entered: May 17, 2018

108751

---

THE PEOPLE OF THE STATE OF  
NEW YORK,

Respondent,

v

MEMORANDUM AND ORDER

TYRELL BERKLEY,

Appellant.

---

Calendar Date: April 3, 2018

Before: Garry, P.J., McCarthy, Clark, Aarons 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 June 30, 2016, convicting defendant upon his plea of guilty of the crime of attempted promoting prison contraband in the first degree.

Defendant was found to be in possession of a handmade weapon while he was incarcerated and was charged in an indictment with promoting prison contraband in the first degree. In satisfaction thereof, he pleaded guilty to attempted promoting prison contraband in the first degree. In accordance with the terms of the plea agreement, he was sentenced as a second felony offender to 1½ to 3 years in prison, to run consecutively to the sentence that he was then serving. Defendant appeals.

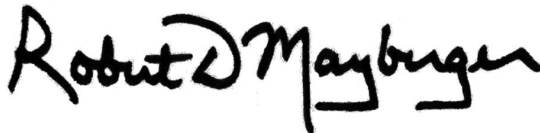
Appellate counsel seeks to be relieved of his assignment of representing defendant on the basis that there are no

nonfrivolous issues to be raised on appeal. Based upon our review of the record and counsel's brief, we agree. Consequently, 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