

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

Decided and Entered: June 27, 2019

109209

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THE PEOPLE OF THE STATE OF  
NEW YORK,

Respondent,

v

MEMORANDUM AND ORDER

ISAIAH PETTWAY,

Appellant.

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Calendar Date: May 24, 2019

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

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G. Scott Walling, Slingerlands, for appellant.

Robert M. Carney, District Attorney, Schenectady (Peter H. Willis of counsel), for respondent.

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Appeal from a judgment of the County Court of Schenectady County (Sypniewski, J.), rendered October 18, 2016, convicting defendant upon his plea of guilty of the crime of robbery in the first degree.

In satisfaction of a nine-count indictment, defendant pleaded guilty to robbery in the first degree and waived his right to appeal, both orally and in writing. He subsequently expressed a desire to withdraw his guilty plea and submitted a pro se affidavit to County Court. County Court, in turn, appointed an independent counsel to advise defendant with respect thereto and to report to the court on the merits. Counsel reported that there was no legitimate ground for a withdrawal motion and County Court declined to address it.

Consequently, in accordance with the terms of the plea agreement, County Court sentenced defendant as a second violent felony offender to 15 years in prison, followed by five years of postrelease supervision. Defendant appeals.

Appellate counsel seeks to be relieved of his 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 Beaty, 22 NY3d 490 [2014]; People v Stokes, 95 NY2d 633 [2001]).

Egan Jr., J.P., Lynch, Mulvey, Devine 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