

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

Decided and Entered: March 7, 2019

109557

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THE PEOPLE OF THE STATE OF  
NEW YORK,

Respondent,

v

MEMORANDUM AND ORDER

TYHEEM SMITH,

Appellant.

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Calendar Date: February 8, 2019

Before: Garry, P.J., Egan Jr., Mulvey, Aarons 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 May 5, 2017, convicting defendant upon his plea of guilty of the crime of attempted assault in the first degree.

In satisfaction of a three-count indictment, defendant pleaded guilty to the reduced charge of attempted assault in the first degree with the understanding that he would be sentenced to an eight-year prison term with a period of postrelease supervision of between 2½ and 5 years. As part of the plea agreement, defendant waived his right to appeal and signed a written waiver of appeal in court. County Court thereafter sentenced defendant in accordance with the plea agreement to a

prison term of eight years to be 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]).

Garry, P.J., Egan Jr., Mulvey, 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