

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

Decided and Entered: September 19, 2019

109558

THE PEOPLE OF THE STATE OF
NEW YORK,

Respondent,

v

MEMORANDUM AND ORDER

GERALD W. WILDRICK,

Appellant.

Calendar Date: August 21, 2019

Before: Garry, P.J., Egan Jr., Clark, Mulvey and Pritzker, JJ.

Jeffrey R. Parry, Oneida, for appellant.

Kirk O. Martin, District Attorney, Owego (Sandra L. Cardone of counsel), for respondent.

Egan Jr., J.

Appeal from a judgment of the County Court of Tioga County (Keene, J.), rendered March 17, 2017, convicting defendant upon his plea of guilty of the crime of criminal sale of a controlled substance in the third degree.

In November 2016, defendant was charged by indictment with two counts of criminal sale of a controlled substance in the third degree. Defendant thereafter pleaded guilty to one count of criminal sale of a controlled substance in the third degree in satisfaction of the indictment and was sentenced, in accordance with the plea agreement, to a prison term of five

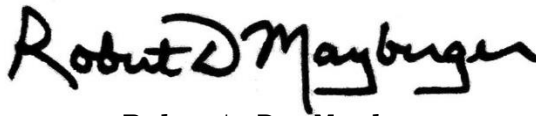
years, to be followed by one year of postrelease supervision. Defendant appeals.

Defendant failed to preserve for appellate review his claim that the sentence imposed violated his right to equal protection under both the State and Federal Constitutions as he did not object to the imposition of sentence on this basis at the combined plea and sentencing proceeding (see People v Creech, 165 AD3d 1491, 1494 [2018]; People v Cesar, 131 AD3d 223, 226-227 [2015]) or make an appropriate postallocation motion to withdraw his guilty plea (see People v Brewster, 161 AD3d 1309, 1310 [2018]). Accordingly, we find no basis to disturb the judgment.

Garry, P.J., Clark, Mulvey and Pritzker, 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