

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

Decided and Entered: March 16, 2020

109795

THE PEOPLE OF THE STATE OF
NEW YORK,

Respondent,

v

MEMORANDUM AND ORDER

DAYSHAWN ALLEN,

Appellant.

Calendar Date: February 7, 2020

Before: Lynch, J.P., Clark, Mulvey, Pritzker and Colangelo, JJ.

Justin C. Brusgul, Voorheesville, for appellant.

David J. Clegg, District Attorney, Kingston (Joan Gudesblatt Lamb of counsel), for respondent.

Appeal from a judgment of the County Court of Ulster County (Williams, J.), rendered May 10, 2017, convicting defendant upon his plea of guilty of the crime of burglary in the first degree.

In full satisfaction of a four-count indictment, defendant pleaded guilty to one count of burglary in the first degree with the understanding that his sentence would be capped at 12 years followed by five years of postrelease supervision. As part of the plea agreement, defendant waived his right to appeal. Consistent with the terms of the plea agreement, County Court sentenced defendant to a prison term of 12 years followed by five years of postrelease supervision. This appeal ensued.

Defendant's sole contention upon appeal – that the sentence imposed is harsh and excessive – is precluded by his unchallenged waiver of the right to appeal (see People v Miller, 175 AD3d 1677, 1677 [2019]; People v Valachovic, 163 AD3d 1351, 1351-1352 [2018], lv denied 33 NY3d 954 [2019]; People v Wands, 160 AD3d 1214, 1215 [2018], lv denied 31 NY3d 1122 [2018]). Accordingly, the judgment of conviction is affirmed.

Lynch, J.P., Clark, Mulvey, Pritzker and Colangelo, 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