

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

Decided and Entered: April 16, 2020

110336

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THE PEOPLE OF THE STATE OF  
NEW YORK,

Respondent,

v

MEMORANDUM AND ORDER

SALVATORE CUPPUCCINO,  
Appellant.

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Calendar Date: March 20, 2020

Before: Garry, P.J., Egan Jr., Clark, Aarons and Colangelo, JJ.

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G. Scott Walling, Slingerlands, for appellant, and  
appellant pro se.

J. Anthony Jordan, District Attorney, Ford Edward (Taylor  
Fitzsimmons of counsel), for respondent.

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Appeal from a judgment of the County Court of Washington  
County (McKeighan, J.), rendered March 9, 2018, convicting  
defendant upon his plea of guilty of the crime of attempted  
promoting prison contraband in the first degree.

In December 2016, while serving a term of imprisonment,  
defendant was found to be in possession of a sharpened object.  
In August 2017, he was charged in an indictment with promoting  
prison contraband in the first degree. The indictment was later  
amended and, 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 ground that there are no nonfrivolous issues that may be raised on appeal. Based upon our review of the record, counsel's brief, the People's brief and defendant's pro se supplemental brief, we disagree. Defendant's pro se contentions concerning the denial of his right to a speedy trial and trial counsel's failure to seek dismissal of the indictment on this ground warrant further consideration (see People v Green, 138 AD3d 1312, 1313 [2016]; People v Hernandez, 12 AD3d 723, 723 [2004]). Accordingly, without passing judgment on the ultimate merit of these issues or any others, we grant counsel's application for leave to withdraw and assign new counsel to address these issues and any others that the record may disclose (see People v Beaty, 22 NY3d 490, 492-493 [2014]; People v Stokes, 95 NY2d 633, 638-639 [2001]; see generally People v Cruwys, 113 AD2d 979, 980 [1985], lv denied 67 NY2d 650 [1986]).

Garry, P.J., Egan Jr., Clark, Aarons and Colangelo, JJ., concur.

ORDERED that the decision is withheld, application to be relieved of assignment granted and new counsel to be assigned.

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