

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

Decided and Entered: November 25, 2020

111858

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THE PEOPLE OF THE STATE OF  
NEW YORK,

Respondent,

v

MEMORANDUM AND ORDER

ANTONIO MAGEE,

Appellant.

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Calendar Date: November 13, 2020

Before: Garry, P.J., Lynch, Clark, Devine and Aarons, JJ.

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G. Scott Walling, Slingerlands, for appellant.

J. Anthony Jordan, District Attorney, Fort 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 April 16, 2019, convicting defendant upon his plea of guilty of the crime of criminal sale of a controlled substance in the third degree.

Defendant pleaded guilty to criminal sale of a controlled substance in the third degree in satisfaction of a three-count indictment. Pursuant to the terms of the plea agreement, defendant waived his right to appeal and executed a written waiver in open court. County Court imposed the agreed-upon sentence of five years to be followed by three years of postrelease supervision, as an acknowledged second felony drug offender, and ordered him to pay restitution. 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 and counsel's brief, we agree. Accordingly, 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., Lynch, Clark, Devine and Aarons, 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