

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

Decided and Entered: June 17, 2021

110288

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THE PEOPLE OF THE STATE OF  
NEW YORK,

Respondent,

v

MEMORANDUM AND ORDER

JERMAINE M. JONES,

Appellant.

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Calendar Date: May 7, 2021

Before: Garry, P.J., Lynch, Pritzker, Reynolds Fitzgerald and  
Colangelo, JJ.

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Shane A. Zoni, Public Defender, Hudson (Bryan Bergeron of  
counsel), for appellant.

Paul Czajka, District Attorney, Hudson (Kevin B. Thiemann  
of counsel), for respondent.

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Appeal from a judgment of the County Court of Columbia  
County (Nichols, J.), rendered March 8, 2018, convicting  
defendant upon his plea of guilty of the crime of assault in the  
second degree.

Defendant pleaded guilty to a superior court information  
charging him with assault in the second degree and he was  
required to waive the right to appeal. County Court sentenced  
defendant to seven years in prison, to be followed by two 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 that can be raised on appeal. Upon our review of the record and counsel's brief, we disagree. We find there is at least one issue of arguable merit with respect to the validity of defendant's appeal waiver that may potentially impact other issues that may be raised, such as the severity of the sentence (see People v Thomas, 34 NY3d 545, 566 [2019]; People v Barrales, 179 AD3d 1313, 1314-1315 [2020]). Accordingly, without passing judgment on the ultimate merit of this issue, we grant counsel's application for leave to withdraw and assign new counsel to address this issue 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., Lynch, Pritzker, Reynolds Fitzgerald 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