

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

Decided and Entered: September 23, 2021

110864

THE PEOPLE OF THE STATE OF
NEW YORK,

Respondent,

v

MEMORANDUM AND ORDER

JOHN MITCHELL,

Appellant.

Calendar Date: September 3, 2021

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

Lisa A. Burgess, Indian Lake, for appellant.

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

Appeal from a judgment of the County Court of Washington County (McKeighan, J.), rendered September 29, 2017, convicting defendant upon his plea of guilty of the crime of criminal sale of a controlled substance in the third degree.

Defendant was charged in a four-count indictment with various crimes stemming from the sale of heroin on two occasions. In satisfaction of those charges, as well as pending charges in Town Court, defendant pleaded guilty under count 1 of the indictment to criminal sale of a controlled substance in the third degree. As part of the plea agreement, defendant waived his right to appeal and executed a written waiver of appeal. In accordance with the terms of the agreement, County Court

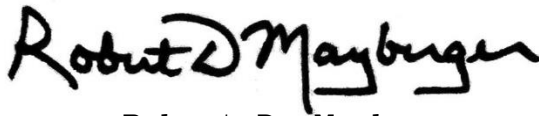
sentenced defendant to a prison term of five years, to be followed by two years of postrelease supervision.

Appellate counsel seeks to be relieved of her assignment of representing defendant on the ground that there are no nonfrivolous issues to 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., Egan Jr., Clark, Aarons and Colangelo, 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