

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

Decided and Entered: July 15, 2021

111303

THE PEOPLE OF THE STATE OF
NEW YORK,

Respondent,

v

MEMORANDUM AND ORDER

DENNIS E. JONES,

Appellant.

Calendar Date: June 17, 2021

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

Rural Law Center of New York, Castleton (Kelly L. Egan of counsel), for appellant.

Karen A. Heggen, District Attorney, Ballston Spa (Gordon W. Eddy of counsel), for respondent.

Appeal from a judgment of the County Court of Saratoga County (Murphy III, J.), rendered August 24, 2018, convicting defendant upon his plea of guilty of the crime of criminal possession of a controlled substance in the first degree.

In satisfaction of a superior court information, as well as other pending drug and weapons charges and potential drug trafficking charges, defendant pleaded guilty to criminal possession of a controlled substance in the first degree and purportedly waived his right to appeal. In accord with the terms of the plea agreement, County Court sentenced defendant to a prison term of 14 years followed by five years of postrelease supervision. Defendant appeals.

The People concede, and our review of the record confirms, that the waiver of the right to appeal is invalid. Therefore, defendant is not precluded from challenging the sentence imposed as harsh and excessive (see People v Mosher, 191 AD3d 1170, 1171 [2021], lv denied 37 NY3d 959 [2021]). Nevertheless, although defendant was 65 years old at the time of sentencing and had no recent criminal convictions, we are unpersuaded that extraordinary circumstances exist warranting a reduction of the agreed-upon sentence in the interest of justice (see People v Molina, 73 AD3d 1292, 1293 [2010], lv denied 15 NY3d 807 [2010]).

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

ORDERED that the judgment is affirmed.

ENTER:

A handwritten signature in black ink, reading "Robert D. Mayberger". The signature is written in a cursive, flowing style with a large, stylized "R" and "M".

Robert D. Mayberger
Clerk of the Court