

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

Decided and Entered: June 9, 2022

110667

THE PEOPLE OF THE STATE OF
NEW YORK,

Respondent,

v

MEMORANDUM AND ORDER

JEREMY JACOBS,

Appellant.

Calendar Date: May 20, 2022

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

Justin C. Brusgul, Voorheesville, for appellant.

P. David Soares, District Attorney, Albany (Christopher D. Horn of counsel), for respondent.

Appeal from a judgment of the Supreme Court (McDonough, J.), rendered June 9, 2017 in Albany County, convicting defendant upon his plea of guilty of the crime of attempted assault in the first degree.

Defendant pleaded guilty to the reduced charge of attempted assault in the first degree in satisfaction of a two-count indictment and agreed to waive his right to appeal. County Court thereafter sentenced defendant, in accordance with the plea agreement, to a prison term of five years followed by five 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 may be raised on appeal. Based upon our review of the record, however, we find issues of arguable merit pertaining to the validity of the waiver of the right to appeal that may impact other issues that may be raised, such as the severity of the sentence imposed (see People v Stratton, 201 AD3d 1201, 1202 [2022]). Accordingly, without passing judgment on the ultimate merit of these issues, 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:



Robert D. Mayberger
Clerk of the Court