

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

Decided and Entered: June 9, 2022

112000

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THE PEOPLE OF THE STATE OF  
NEW YORK,

Respondent,

v

MEMORANDUM AND ORDER

RANDY KING, Also Known as  
RANDY N. KING,

Appellant.

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Calendar Date: May 20, 2022

Before: Garry, P.J., Lynch, Clark, Colangelo and McShan, JJ.

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Rural Law Center of New York, Castleton (Kristin A. Bluvas  
of counsel), for appellant.

Gary M. Pasqua, District Attorney, Canton (Dillon Bullard  
of counsel), for respondent.

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Appeal from a judgment of the County Court of St. Lawrence  
County (Richards, J.), rendered October 30, 2019, convicting  
defendant upon his plea of guilty of the crime of attempted  
criminal possession of a controlled substance in the third  
degree.

In satisfaction of a three-count indictment, defendant  
pleaded guilty to the reduced charge of attempted criminal  
possession of a controlled substance in the third degree and  
purportedly waived his right to appeal. County Court sentenced  
defendant, as a second felony drug offender, to the agreed-upon

sentence of four years in prison followed by two years of postrelease supervision. Defendant appeals.

We affirm. Contrary to defendant's contention, his waiver of the right to appeal is valid. The record reflects that defendant was aware that the waiver of the right to appeal was a condition of the plea agreement. County Court advised defendant that the appeal waiver was separate and distinct from the rights automatically forfeited by the guilty plea and that certain issues survived, which defendant acknowledged he understood. Defendant also executed a written appeal waiver after conferring with counsel, and assured the court that he had read it, understood its contents and was voluntarily waiving his right to appeal. Accordingly, as the record reflects no infirmities in the combined oral and written waiver (compare People v Thomas, 34 NY3d 545, 562-563 [2019]), we find that defendant knowingly, voluntarily and intelligently waived his right to appeal (see People v Whitton, 201 AD3d 1259, 1259-1260 [2022]; People v Champion-Barse, 201 AD3d 1255, 1255 [2022]). Defendant's valid appeal waiver, which we note specifically extended to any argument that the sentence is harsh and excessive, precludes our review of defendant's challenge to the severity of the sentence imposed (see People v Whitton, 201 AD3d at 1260; People v Lapoint, 201 AD3d 1258, 1258 [2022], lv denied \_\_\_ NY3d \_\_\_ [Apr. 21, 2022]).

Garry, P.J., Lynch, Clark, Colangelo and McShan, JJ.,  
concur.

ORDERED that the judgment is affirmed.

ENTER:

A handwritten signature in black ink that reads "Robert D. Mayberger". The signature is written in a cursive style with a large, prominent "R" at the beginning and a long, sweeping underline at the end.

Robert D. Mayberger  
Clerk of the Court