

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

Decided and Entered: December 8, 2022

112872

---

THE PEOPLE OF THE STATE OF  
NEW YORK,

Respondent,

v

MEMORANDUM AND ORDER

QUINTIN J. THOMPkins,  
Appellant.

---

Calendar Date: November 10, 2022

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

---

Lisa A. Burgess, Indian Lake, for appellant.

Weeden A. Wetmore, District Attorney, Elmira (Zachary S.  
Persichini of counsel), for respondent.

---

Appeal from a judgment of the County Court of Chemung  
County (Richard W. Rich Jr., J.), rendered May 10, 2021,  
convicting defendant upon his plea of guilty of the crime of  
criminal use of a firearm in the first degree.

Defendant was charged in an eight-count indictment with  
attempted murder in the second degree, attempted assault in the  
first degree, criminal use of a firearm in the first degree,  
criminal use of a firearm in the second degree, two counts of  
criminal possession of a weapon in the second degree, criminal  
possession of a weapon in the third degree and criminal contempt  
in the first degree. In full satisfaction of that indictment,  
defendant was afforded the opportunity to plead guilty to

criminal use of a firearm in the first degree with the understanding that he would be sentenced as a second felony offender to a prison term of 10 years followed by five years of postrelease supervision. Defendant pleaded guilty in conformity with the plea agreement, which did not require him to waive his right to appeal, and County Court imposed the agreed-upon term of imprisonment. Defendant appeals.

Defendant, as so limited by his brief, challenges only the severity of the agreed-upon sentence imposed. As a second felony offender convicted of a class B violent felony (*see* Penal Law § 70.02 [1] [a]), defendant could have been sentenced to a prison term of up to 25 years, and the sentence that he actually received (10 years) was only two years more than the minimum permissible term of imprisonment (*see* Penal Law § 70.06 [6] [a]). Given the nature of the underlying crime, the fact that the victim was the mother of defendant's child and defendant's extensive criminal history, we do not find the negotiated term of imprisonment to be unduly harsh or severe (*see* CPL 470.15 [6] [b]; *People v Carney*, 207 AD3d 1000, 1001 [3d Dept 2022]), and we decline defendant's invitation to modify his sentence in the interest of justice. Accordingly, the judgment of conviction is affirmed.

Garry, P.J., Lynch, Pritzker, Reynolds Fitzgerald and Fisher, 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, slightly slanted style.

Robert D. Mayberger  
Clerk of the Court