

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

Decided and Entered: August 10, 2023

112086

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THE PEOPLE OF THE STATE OF  
NEW YORK,

Respondent,

v

MEMORANDUM AND ORDER

JAVIER PEREZ,

Appellant.

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Calendar Date: June 23, 2023

Before: Egan Jr., J.P, Aarons, Ceresia, Fisher and McShan, JJ.

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*Justin C. Brusgul*, Altamont, for appellant.

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

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Appeal from a judgment of the County Court of Washington County (Kelly S. McKeighan, J.), rendered August 9, 2019, convicting defendant upon his plea of guilty of the crime of attempted promoting prison contraband in the first degree.

Defendant, an incarcerated individual, was charged by indictment with two counts of promoting prison contraband in the first degree after he was found to be in possession of two weapons. Pursuant to a plea agreement, defendant pleaded guilty to the reduced charge of attempted promoting prison contraband in the first degree. In accordance with the terms of the plea agreement, County Court imposed the agreed-upon prison term of 1½ to 3 years, as an acknowledged second felony offender, to be served consecutively to the prison term he was then serving. 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 and counsel's brief, we agree (*see People v Casteline*, 214 AD3d 1268, 1269 [3d Dept 2023]). Accordingly, the judgment is affirmed and counsel's request for leave to withdraw is granted (*see People v Cruwys*, 113 AD2d 979, 980 [3d Dept 1985], *lv denied* 67 NY2d 650 [1986]; *see generally People v Beaty*, 22 NY3d 490 [2014]; *People v Stokes*, 95 NY2d 633 [2001]).

Egan Jr., J.P., Aarons, Ceresia, Fisher and McShan, 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