

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

Decided and Entered: October 5, 2023

112277

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THE PEOPLE OF THE STATE OF  
NEW YORK,

Respondent,

v

MEMORANDUM AND ORDER

FLOYD BRUCE,

Appellant.

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Calendar Date: September 12, 2023

Before: Egan Jr., J.P., Lynch, Reynolds Fitzgerald, Ceresia and Fisher, JJ.

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*Rural Law Center of New York, Inc.*, Plattsburgh (*Keith F. Schockmel* of counsel),  
for appellant.

*Gary M. Pasqua*, District Attorney, Canton (*Matthew L. Peabody* of counsel), for  
respondent.

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Egan Jr., J.P.

Appeal from a judgment of the County Court of St. Lawrence County (John F. Richey, J.), rendered January 6, 2020, convicting defendant upon his plea of guilty of the crime of attempted promoting prison contraband in the first degree.

Defendant was charged by indictment with two counts of promoting prison contraband in the first degree for possessing two separate sharpened pieces of metal while serving a prison sentence. Pursuant to a plea agreement, defendant pleaded guilty to one count of the reduced charge of attempted promoting prison contraband in the first

degree and waived his right to appeal.<sup>1</sup> Defendant was thereafter sentenced, as a second felony offender, to the agreed-upon term of 1½ to 3 years in prison, to run consecutively to the sentence that he was then serving. Defendant appeals.

We affirm. Defendant's sole contention on appeal is that alleged defects in the People's presentation of certain evidence and testimony before the grand jury impaired the integrity of the grand jury proceeding. Our review of defendant's claims, however, reveal that the flaws alleged are of a technical or evidentiary nature and do not rise to the level of a constitutional or jurisdictional defect implicating the integrity of the process. Thus, they have been forfeited by his unchallenged guilty plea (*see People v Guerrero*, 28 NY3d 110, 115-116 [2016]; *People v Wilburn*, 158 AD3d 894, 894-895 [3d Dept 2018], *lv denied* 31 NY3d 1123 [2018]; *People v Rivera*, 93 AD3d 409, 409-410 [1st Dept 2012], *lv denied* 19 NY3d 866 [2012]; *People v Robertson*, 279 AD2d 711, 712-713 [3d Dept 2001], *lv denied* 96 NY2d 805 [2001]).

Lynch, Reynolds Fitzgerald, Ceresia 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

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<sup>1</sup> Defendant does not challenge his waiver of appeal.