

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

Decided and Entered: May 30, 2024

111844

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THE PEOPLE OF THE STATE OF  
NEW YORK,

Respondent,

v

MEMORANDUM AND ORDER

DESTINY WW.,

Appellant.

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Calendar Date: April 24, 2024

Before: Egan Jr., J.P., Aarons, Lynch, Reynolds Fitzgerald and Powers, JJ.

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*Dana L. Salazar*, East Greenbush, for appellant.

*Mary Pat Donnelly*, District Attorney, Troy (*George J. Hoffman Jr.* of counsel),  
for respondent.

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Lynch, J.

Appeal from a judgment of the County Court of Rensselaer County (Jennifer G. Sober, J.), rendered May 15, 2019, which revoked defendant's probation and imposed a sentence of imprisonment.

Defendant waived indictment and agreed to be prosecuted pursuant to a superior court information charging her with one count of robbery in the third degree. After executing a waiver of appeal and pleading guilty to the charged crime, County Court adjudicated defendant a youthful offender and sentenced her to time served, placed her on probation for five years and ordered her to pay restitution. Less than one week later, defendant was arrested after attempting to rob a convenience store. In satisfaction of the

resulting four-count indictment, defendant pleaded guilty to attempted robbery in the first degree and attempted grand larceny in the fourth degree and, consistent with the plea agreement, was released to a residential treatment program. After defendant was discharged from the program for a medical issue, County Court permitted defendant to reside with her mother under house arrest subject to various terms and conditions, including that defendant wear an electronic ankle monitor. Within a matter of days, defendant cut off her ankle monitor and absconded.

As a result of the foregoing, defendant was charged with violating certain terms and conditions of her probation, including the provision prohibiting her from committing any new offenses. Defendant admitted violating her probation in this respect, and County Court revoked defendant's probation and immediately resentedenced her to a prison term of 1 to 3 years. The resentence ran concurrently with the sentence County Court then imposed upon defendant's attempted robbery and attempted grand larceny convictions. This appeal ensued.

We affirm. The waiver of appeal entered into in connection with defendant's original plea of guilty to robbery in the third degree does not preclude her from challenging the severity of the resentence imposed following the revocation of her probation (*see People v Reese*, 207 AD3d 958, 958-959 [3d Dept 2022], *lv denied* 38 NY3d 1190 [2022]; *People v Love*, 182 AD3d 868, 868 [3d Dept 2020]). However, "[i]nasmuch as defendant has completed serving the [re]sentence imposed, [her] challenge to the severity of the [re]sentence is moot" (*People v Blanding*, 211 AD3d 1608, 1609 [4th Dept 2022], *lv denied* 39 NY3d 1077 [2023]; *see People v Hancarik*, 202 AD3d 1151, 1151 [3d Dept 2022]).<sup>1</sup> Defendant's remaining arguments, to the extent not specifically addressed, have been examined and found to be lacking in merit.

Egan Jr., J.P., Aarons, Reynolds Fitzgerald and Powers, JJ., concur.

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<sup>1</sup> To the extent that defendant contends that this issue is not moot because County Court's determination that defendant violated her probation "is a continuing blot on [her] record with potential future consequences" (*People v Hancarik*, 202 AD3d at 1151 [internal quotation marks and citations omitted]), we need note only that defendant has not challenged the voluntariness of her admission in the context of the instant appeal.

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, stylized 'R' and 'M'.

Robert D. Mayberger  
Clerk of the Court