

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

Decided and Entered: July 18, 2024

113706

---

THE PEOPLE OF THE STATE OF  
NEW YORK,

Respondent,

v

MEMORANDUM AND ORDER

THEODORE HOLLOWAY,  
Appellant.

---

Calendar Date: June 14, 2024

Before: Aarons, J.P., Pritzker, Ceresia, Fisher and Mackey, JJ.

---

*Lisa A. Burgess*, Indian Lake, for appellant.

*Andrew J. Wylie*, District Attorney, Plattsburgh (*Jaime A. Douthat* of counsel), for respondent.

---

Appeal from a judgment of the County Court of Clinton County (Keith M. Bruno, J.), rendered August 16, 2022, convicting defendant upon his plea of guilty of the crime of attempted promoting prison contraband in the first degree.

In full satisfaction of a two-count indictment, defendant was permitted to plead guilty to the reduced charge of attempted promoting prison contraband in the first degree with the understanding that he would be sentenced as a second felony offender to a prison term of 1½ to 3 years – said sentence to run consecutively to the prison term defendant then was serving. The plea agreement also required defendant to waive his right to appeal. Defendant pleaded guilty as outlined in the plea agreement, and County Court imposed the agreed-upon term of imprisonment. This appeal ensued.

Appellate counsel seeks to be relieved of the assignment of representing defendant upon the ground that there are no nonfrivolous issues to be raised on appeal. Based upon our review of the record and counsel's brief, we agree. Accordingly, the judgment of conviction 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]).<sup>1</sup>

Aarons, J.P., Pritzker, Ceresia, Fisher and Mackey, JJ., concur.

ORDERED that the judgment is affirmed, application to be relieved of assignment granted and matter remitted to the County Court of Clinton County for entry of an amended uniform sentence and commitment form.

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

---

<sup>1</sup> Appellate counsel notes that the uniform sentence and commitment form contains a scrivener's error in that it reflects that defendant pleaded guilty under count 3 of what was only a two-count indictment. Accordingly, this error should be corrected by amending the form (*see People v Stabb*, 207 AD3d 948, 950 [3d Dept 2022]).