

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

Decided and Entered: June 13, 2024

CR-22-2356

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THE PEOPLE OF THE STATE OF  
NEW YORK,

Respondent,

v

MEMORANDUM AND ORDER

KEVIN C. COCHRANE,

Appellant.

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Calendar Date: May 24, 2024

Before: Egan Jr., J.P., Lynch, Ceresia, McShan and Mackey, JJ.

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*Michael T. Baker, Public Defender, Binghamton (Marshall C. Read of counsel),*  
for appellant.

*F. Paul Battisti, District Attorney, Binghamton (Joann Rose Parry of counsel),* for  
respondent.

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Appeal from a judgment of the County Court of Broome County (Carol A. Cocchiola, J.), rendered October 4, 2022, convicting defendant upon his plea of guilty of the crime of attempted use of a child in a sexual performance as a sexually motivated felony.

In satisfaction of a nine-count indictment, defendant pleaded guilty to attempted use of a child in a sexual performance as a sexually motivated felony in exchange for a sentencing cap of three years to be followed by six years of postrelease supervision. The plea agreement required a waiver of appeal. County Court thereafter sentenced defendant to a prison term of three years followed by six years of postrelease supervision. Defendant appeals.

Defendant's sole challenge on appeal is to the perceived severity of the lawful sentence imposed.<sup>1</sup> That argument, however, is precluded by his unchallenged oral and written waiver of appeal (*see People v Lopez*, 6 NY3d 248, 256 [2006]; *People v Stevens*, 220 AD3d 984, 986 [3d Dept 2023]). Therefore, the judgment is affirmed.

Egan Jr., J.P., Lynch, Ceresia, McShan and Mackey, 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> The sentence imposed was authorized for this class D felony sex offense (*see* Penal Law §§ 60.13, 70.45 [2-a] [a]; 70.80 [1] [a]; [4] [iii]; 110.00, 110.05 [5]; 130.91 [1], [2]; 263.05).