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

Decided and Entered: September 18, 2014 105827

THE PEOPLE OF THE STATE OF NEW YORK,
Respondent,
v MEMORANDUM AND ORDER

MELVIN D. ANDERSON, Also Known as AK,
Appellant.

Calendar Date: August 4, 2014

Before: Peters, P.J., Lahtinen, Rose, Devine and Clark, JJ.

Lisa A. Burgess, Indian Lake, for appellant.

Andrew J. Wylie, District Attorney, Plattsburgh (Timothy G. Blatchley of counsel), for respondent.

Appeal from a judgment of the County Court of Clinton County (Ryan, J.), rendered August 27, 2012, convicting defendant upon his plea of guilty of the crime of criminal possession of a controlled substance in the fourth degree (two counts).

In satisfaction of a four-count indictment, defendant pleaded guilty to two counts of criminal possession of a controlled substance in the fourth degree and purportedly waived his right to appeal. County Court thereafter sentenced defendant, as agreed, to an aggregate prison term of seven years to be followed by two years of postrelease supervision. Defendant now appeals.

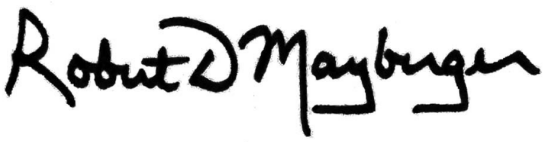
Defense counsel argues that no nonfrivolous issues exist to be raised upon appeal and seeks to be relieved of her assignment.

We disagree. Our review of the record discloses an issue of arguable merit regarding the validity of defendant's appeal waiver that may, in turn, implicate other potential appellate issues (see People v Slavin, 114 AD3d 1082, 1082 [2014]; People v Whitted, 106 AD3d 1286, 1287 [2013]). We thus grant counsel's request for leave to withdraw and assign new counsel to address that issue and any others that the record may disclose (see People v Stokes, 95 NY2d 633 [2001]; People v Cruwys, 113 AD2d 979, 980 [1985], lv denied 67 NY2d 650 [1986]).

Peters, P.J., Lahtinen, Rose, Devine and Clark, JJ., concur.

ORDERED that the decision is withheld, application to be relieved of assignment granted and new counsel to be assigned.

ENTER:



Robert D. Mayberger
Clerk of the Court