

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

Decided and Entered: March 28, 2013

104157

THE PEOPLE OF THE STATE OF
NEW YORK,

Respondent,

v

MEMORANDUM AND ORDER

RONALD K. OAKLEY,

Appellant.

Calendar Date: February 5, 2013

Before: Mercure, J.P., Rose, Lahtinen and Garry, JJ.

David E. Woodin, Catskill, for appellant.

Paul Czajka, District Attorney, Hudson (Henry Neal Conolly of counsel), for respondent.

Lahtinen, J.

Appeal from a judgment of the County Court of Columbia County (Czajka, J.), rendered March 2, 2011, convicting defendant upon his plea of guilty of the crimes of burglary in the second degree, burglary in the third degree (19 counts), grand larceny in the third degree and petit larceny.

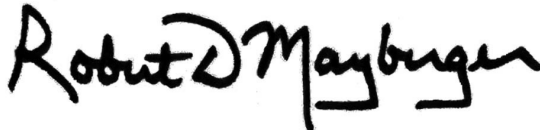
On several occasions in 2010, defendant allegedly entered various buildings in Columbia County, including a dwelling, and stole property located therein. He was arrested, charged with various counts of burglary and larceny, and eventually pleaded guilty without waiving his right to appeal. He was sentenced, as a second felony offender, to 18½ years in prison followed by postrelease supervision and ordered to pay restitution. His arguments on appeal include that the Columbia County District

Attorney should be disqualified from representing the People on this appeal because, prior to being elected to that position, he was the County Judge who presided over and sentenced him in this matter. In light of our recent decision in Matter of Czajka v Koweek (100 AD3d 1136 [2012], lv denied 20 NY3d 857 [2013]), this argument has merit. Accordingly, we withhold decision and remit to County Court for the expeditious appointment of a special prosecutor (see County Law § 701).

Mercure, J.P., Rose and Garry, JJ., concur.

ORDERED that the decision is withheld, and matter remitted to the County Court of Columbia County for further proceedings not inconsistent with this Court's decision.

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