

SUPREME COURT OF THE STATE OF NEW YORK
Appellate Division, Fourth Judicial Department

1566

KA 03-02013

PRESENT: CENTRA, J.P., PERADOTTO, GREEN, AND PINE, JJ.

THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

JESSIE J. COOPER, DEFENDANT-APPELLANT.
(APPEAL NO. 1.)

PHILLIP R. HURWITZ, ROCHESTER, FOR DEFENDANT-APPELLANT.

MICHAEL C. GREEN, DISTRICT ATTORNEY, ROCHESTER (LESLIE E. SWIFT OF COUNSEL), FOR RESPONDENT.

Appeal from a judgment of the Monroe County Court (Patricia D. Marks, J.), rendered September 15, 2003. The judgment convicted defendant, upon a jury verdict, of criminal possession of a weapon in the third degree and criminal possession of a weapon in the fourth degree.

It is hereby ORDERED that the judgment so appealed from is unanimously modified as a matter of discretion in the interest of justice and on the law by reversing that part convicting defendant of criminal possession of a weapon in the third degree and dismissing the second count of the indictment and as modified the judgment is affirmed.

Same Memorandum as in *People v Cooper* ([appeal No. 2] ___ AD3d ___ [Feb. 6, 2009]).

Entered: February 6, 2009

JoAnn M. Wahl
Clerk of the Court