

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

**1213**

**KA 06-01296**

PRESENT: SMITH, J.P., FAHEY, CARNI, PINE, AND GORSKI, JJ.

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THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

ORDER

ARIEL CUBERO, JR., DEFENDANT-APPELLANT.

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TIMOTHY P. DONAHER, PUBLIC DEFENDER, ROCHESTER (DREW R. DUBRIN OF COUNSEL), FOR DEFENDANT-APPELLANT.

MICHAEL C. GREEN, DISTRICT ATTORNEY, ROCHESTER (GEOFFREY KAEUPER OF COUNSEL), FOR RESPONDENT.

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Appeal from a judgment of the Supreme Court, Monroe County (Francis A. Affronti, J.), rendered January 31, 2006. The judgment convicted defendant, upon his plea of guilty, of burglary in the second degree.

Now, upon reading and filing the stipulation of discontinuance signed by defendant on September 16, 2009 and by the attorneys for the parties on September 16 and 17, 2009,

It is hereby ORDERED that said appeal is unanimously dismissed upon stipulation.

Entered: October 2, 2009

Patricia L. Morgan  
Clerk of the Court