

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

1665

KA 08-02482

PRESENT: CENTRA, J.P., PERADOTTO, CARNI, PINE, AND GORSKI, JJ.

THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

DEVIN M. JOCK, DEFENDANT-APPELLANT.

MARCEL J. LAJOY, ALBANY, FOR DEFENDANT-APPELLANT.

JOSEPH V. CARDONE, DISTRICT ATTORNEY, ALBION (KATHERINE BOGAN OF COUNSEL), FOR RESPONDENT.

Appeal from a judgment of the Orleans County Court (Mark H. Dadd, J.), rendered November 5, 2008. The judgment convicted defendant, upon his plea of guilty, of attempted burglary in the second degree.

It is hereby ORDERED that the judgment so appealed from is unanimously affirmed.

Memorandum: On appeal from a judgment convicting him upon his plea of guilty of attempted burglary in the second degree (Penal Law §§ 110.00, 140.25 [2]), the sole contention of defendant is that County Court abused its discretion in denying his request for youthful offender status. We reject that contention (*see People v Smith*, 286 AD2d 878, *lv denied* 98 NY2d 641). It is well established that the decision whether to grant youthful offender status "rests within the sound discretion of the court and depends upon all the attending facts and circumstances of the case" (*People v Shruballs*, 167 AD2d 929, 930). We decline to grant the further request of defendant that we exercise our interest of justice jurisdiction to adjudicate him a youthful offender (*cf. id.* at 930-931).

Entered: December 30, 2009

Patricia L. Morgan
Clerk of the Court