

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

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KA 08-00855

PRESENT: CENTRA, J.P., FAHEY, PERADOTTO, CARNI, AND LINDLEY, JJ.

THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

ALLAN QUIGLEY, DEFENDANT-APPELLANT.
(APPEAL NO. 2.)

THE LEGAL AID BUREAU OF BUFFALO, INC., BUFFALO (ROBERT B. HALLBORG, JR., OF COUNSEL), FOR DEFENDANT-APPELLANT.

FRANK A. SEDITA, III, DISTRICT ATTORNEY, BUFFALO (MATTHEW B. POWERS OF COUNSEL), FOR RESPONDENT.

Appeal from a resentence of the Erie County Court (Thomas P. Amodeo, J.), rendered February 5, 2008. Defendant was resentence as a second felony offender upon his conviction of criminal mischief in the third degree and possession of burglar's tools.

It is hereby ORDERED that the resentence so appealed from is unanimously modified on the law by vacating the sentence imposed on count one of the indictment and as modified the resentence is affirmed.

Same Memorandum as in *People v Quigley* ([appeal No. 1] ____ AD3d ____ [Feb. 11, 2010]).

Entered: February 11, 2010

Patricia L. Morgan
Clerk of the Court