

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

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**KA 09-02476**

PRESENT: SCUDDER, P.J., SMITH, PERADOTTO, LINDLEY, AND GREEN, JJ.

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THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

ODIS KNIGHT, DEFENDANT-APPELLANT.

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RONALD C. VALENTINE, PUBLIC DEFENDER, LYONS (MARY P. DAVISON OF COUNSEL), FOR DEFENDANT-APPELLANT.

RICHARD M. HEALY, DISTRICT ATTORNEY, LYONS (CHRISTOPHER BOKELMAN OF COUNSEL), FOR RESPONDENT.

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Appeal from a judgment of the Wayne County Court (John B. Nesbitt, J.), rendered March 5, 2009. The judgment convicted defendant, upon his plea of guilty, of burglary in the first degree, robbery in the first degree and assault in the second degree.

It is hereby ORDERED that the judgment so appealed from is unanimously modified on the law by striking Wayne County Court's oral directive that defendant never again enter Wayne County or travel within 50 miles of the victim's home and as modified the judgment is affirmed.

Memorandum: Defendant appeals from a judgment convicting him upon his plea of guilty of, inter alia, burglary in the first degree (Penal Law § 140.30 [2]) and robbery in the first degree (§ 160.15 [3]). As the People correctly concede, County Court erred in orally modifying the order of protection issued at the time of sentencing. We therefore modify the judgment by striking those oral modifications. The written order of protection remains in effect. We decline to exercise our interest of justice jurisdiction to adjudicate defendant a youthful offender (*see People v Martinez*, 55 AD3d 1334, *lv denied* 11 NY3d 927; *People v Bosse*, 23 AD3d 1063, *lv denied* 6 NY3d 809). Finally, the sentence is not unduly harsh or severe.

Entered: March 25, 2011

Patricia L. Morgan  
Clerk of the Court