

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

171

**KA 10-00555**

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

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THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

ROBBY J. GUPPY, DEFENDANT-APPELLANT.

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AMY L. HALLENBECK, FULTON, FOR DEFENDANT-APPELLANT.

DONALD H. DODD, DISTRICT ATTORNEY, OSWEGO (MICHAEL G. CIANFARANO OF COUNSEL), FOR RESPONDENT.

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Appeal from a judgment of the Oswego County Court (Walter W. Hafner, Jr., J.), rendered March 1, 2010. The judgment convicted defendant, upon a jury verdict, of assault in the third degree (three counts) and endangering the welfare of a child.

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

Memorandum: On appeal from a judgment convicting him upon a jury verdict of three counts of assault in the third degree (Penal Law § 120.00 [1]) and one count of endangering the welfare of a child (§ 260.10 [1]), defendant contends that County Court abused its discretion in denying his request for youthful offender status. "Having considered the facts and circumstances of this case," we reject that contention (*People v Potter*, 13 AD3d 1191, lv denied 4 NY3d 889; see *People v Buryta*, 85 AD3d 1621; see generally CPL 720.20 [1] [a]). We decline to exercise our interest of justice jurisdiction to adjudicate defendant a youthful offender (see generally *People v Shrubbsall*, 167 AD2d 929, 930-931). Finally, we note that the certificate of conviction incorrectly recites that defendant was convicted of endangering the welfare of a child under Penal Law § 261.10 (1), and it must therefore be amended to reflect that he was convicted of that crime under Penal Law § 260.10 (1) (see *People v Saxton*, 32 AD3d 1286).

Entered: February 10, 2012

Frances E. Cafarell  
Clerk of the Court