

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

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KA 11-00519

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

THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

ANDRE VERNON, DEFENDANT-APPELLANT.
(APPEAL NO. 2.)

MICHAEL L. D'AMICO, BUFFALO, FOR DEFENDANT-APPELLANT.

FRANK A. SEDITA, III, DISTRICT ATTORNEY, BUFFALO (DONNA A. MILLING OF COUNSEL), FOR RESPONDENT.

Appeal, by permission of a Justice of the Appellate Division of the Supreme Court in the Fourth Judicial Department, from an order of the Supreme Court, Erie County (M. William Boller, A.J.), dated January 24, 2011. The order denied the motion of defendant to vacate a judgment of conviction.

It is hereby ORDERED that the case is held, the decision is reserved and the matter is remitted to Supreme Court, Erie County, for a determination of that part of defendant's motion pursuant to CPL 440.10 (1) (c).

Same memorandum as in *People v Vernon* ([appeal No. 1] ___ AD3d ___ [Feb. 5, 2016]).

Entered: February 5, 2016

Frances E. Cafarell
Clerk of the Court