

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

405

KA 08-00851

PRESENT: SCUDDER, P.J., SCONIERS, GREEN, AND GORSKI, JJ.

THE PEOPLE OF THE STATE OF NEW YORK, APPELLANT,

V

MEMORANDUM AND ORDER

RAYMOND CLYDE, DEFENDANT-RESPONDENT.
(APPEAL NO. 2.)

JON E. BUDELMANN, DISTRICT ATTORNEY, AUBURN (CHRISTOPHER T. VALDINA OF COUNSEL), FOR APPELLANT.

RAYMOND CLYDE, DEFENDANT-RESPONDENT PRO SE.

DAVID P. ELKOVITCH, AUBURN, FOR DEFENDANT-RESPONDENT.

Appeal from an order of the Cayuga County Court (Robert B. Wiggins, J.), entered December 28, 2007. The order, insofar as appealed from, granted in part defendant's motion for a trial order of dismissal and dismissed count one of the indictment.

It is hereby ORDERED that the order so appealed from is affirmed.

Same Memorandum as in *People v Clyde* ([appeal No. 1] ___ AD3d ___ [Apr. 30, 2010]).

All concur except SCUDDER, P.J., who dissents and votes to reverse the order insofar as appealed from in accordance with the same dissenting Memorandum as in *People v Clyde* ([appeal No. 1] ___ AD3d ___ [Apr. 30, 2010]).

Entered: April 30, 2010

Patricia L. Morgan
Clerk of the Court