

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

**404**

**KA 16-01831**

PRESENT: SMITH, J.P., CARNI, LINDLEY, CURRAN, AND DEJOSEPH, JJ.

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THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

TASHJ Y. SIMPSON, ALSO KNOWN AS TAHJ SIMPSON,  
DEFENDANT-APPELLANT.

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TIMOTHY P. DONAHER, PUBLIC DEFENDER, ROCHESTER (BENJAMIN L. NELSON OF  
COUNSEL), FOR DEFENDANT-APPELLANT.

SANDRA DOORLEY, DISTRICT ATTORNEY, ROCHESTER (SCOTT MYLES OF COUNSEL),  
FOR RESPONDENT.

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Appeal from a judgment of the Supreme Court, Monroe County  
(Joanne M. Winslow, J.), rendered December 21, 2015. The judgment  
convicted defendant upon a nonjury verdict of robbery in the second  
degree.

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

Memorandum: On appeal from a judgment convicting him following a  
nonjury trial of robbery in the second degree (Penal Law § 160.10  
[2]), defendant contends that Supreme Court abused its discretion in  
refusing to grant him youthful offender status. Preliminarily, we  
note that defendant asserts that the court properly made an initial  
determination that he is an eligible youth pursuant to subdivisions  
two and three of CPL 720.10 (*cf. People v Lofton*, 29 NY3d 1097, 1098  
[2017]; *People v Middlebrooks*, 25 NY3d 516, 524-526 [2015]). Inasmuch  
as defendant does not challenge that determination on this appeal, we  
do not address it.

Contrary to defendant's contention, the court did not abuse its  
discretion in refusing to grant defendant youthful offender status  
(*see People v Lang*, 178 AD3d 1362, 1363 [4th Dept 2019], *lv denied* 34  
NY3d 1160 [2020]; *see generally People v Minemier*, 29 NY3d 414, 421  
[2017]). Additionally, having reviewed the applicable factors  
pertinent to a youthful offender determination (*see People v Keith*  
*B.J.*, 158 AD3d 1160, 1160 [4th Dept 2018]), we decline to exercise our  
interest of justice jurisdiction to grant him such status (*see People*  
*v Macon*, 169 AD3d 1439, 1440 [4th Dept 2019], *lv denied* 33 NY3d 978  
[2019]; *People v Lewis*, 128 AD3d 1400, 1400-1401 [4th Dept 2015], *lv*  
*denied* 25 NY3d 1203 [2015]; *see also People v Lindsey*, 166 AD3d 1565,

1566 [4th Dept 2018], *lv denied* 32 NY3d 1206 [2019]).

Entered: April 24, 2020

Mark W. Bennett  
Clerk of the Court