

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

593.1

KA 20-00886

PRESENT: CENTRA, J.P., LINDLEY, TROUTMAN, WINSLOW, AND DEJOSEPH, JJ.

THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

HILLARD SMITH, ALSO KNOWN AS MARK SMITH,
DEFENDANT-APPELLANT.
(APPEAL NO. 2.)

THE LEGAL AID BUREAU OF BUFFALO, INC., BUFFALO (DEBORAH K. JESSEY OF
COUNSEL), FOR DEFENDANT-APPELLANT.

JOHN J. FLYNN, DISTRICT ATTORNEY, BUFFALO (MATTHEW B. POWERS OF
COUNSEL), FOR RESPONDENT.

Appeal from a resentencing of the Supreme Court, Erie County (M. William Boller, A.J.), rendered May 18, 2018. Defendant was resentenced upon his conviction of, inter alia, criminal possession of a weapon in the third degree (two counts).

It is hereby ORDERED that the resentencing so appealed from is unanimously reversed on the law and the matter is remitted to Supreme Court, Erie County, for resentencing on counts 1, 3 and 5 through 10 of the indictment.

Same memorandum as in *People v Smith* ([appeal No. 1] – AD3d – [Aug. 20, 2020] [4th Dept 2020]).

Entered: August 20, 2020

Mark W. Bennett
Clerk of the Court