

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

415

KA 14-02018

PRESENT: WHALEN, P.J., PERADOTTO, LINDLEY, DEJOSEPH, AND NEMOYER, JJ.

THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

FRANK M. THOMAS, DEFENDANT-APPELLANT.
(APPEAL NO. 2.)

DAVID J. FARRUGIA, DISTRICT ATTORNEY, LOCKPORT (MARY-JEAN BOWMAN OF COUNSEL), FOR DEFENDANT-APPELLANT.

FRANK M. THOMAS, DEFENDANT-APPELLANT PRO SE.

MICHAEL J. VIOLANTE, DISTRICT ATTORNEY, LOCKPORT (THOMAS H. BRANDT OF COUNSEL), FOR RESPONDENT.

Appeal from a judgment of the Niagara County Court (Sara S. Farkas, J.), rendered July 16, 2014. The judgment convicted defendant, upon his plea of guilty, of attempted burglary in the third degree.

It is hereby ORDERED that the judgment so appealed from is unanimously modified as a matter of discretion in the interest of justice and on the law, the sentence is vacated, and the matter is remitted to Niagara County Court for further proceedings in accordance with the same memorandum as in *People v Thomas* ([appeal No. 1] ___ AD3d ___ [June 10, 2016]).

Entered: June 10, 2016

Frances E. Cafarell
Clerk of the Court