

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

1208

**KA 16-01293**

PRESENT: WHALEN, P.J., SMITH, CARNI, CURRAN, AND WINSLOW, JJ.

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THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

M. ROBERT NEULANDER, DEFENDANT-APPELLANT.  
(APPEAL NO. 2.)

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SHAPIRO ARATO LLP, NEW YORK CITY (ALEXANDRA A.E. SHAPIRO OF COUNSEL),  
FOR DEFENDANT-APPELLANT.

WILLIAM J. FITZPATRICK, DISTRICT ATTORNEY, SYRACUSE (JAMES P. MAXWELL  
OF COUNSEL), FOR RESPONDENT.

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Appeal, by permission of a Justice of the Appellate Division of the Supreme Court in the Fourth Judicial Department, from an order of the Onondaga County Court (Thomas J. Miller, J.), dated June 27, 2016. The order denied the motion of defendant to vacate a judgment of conviction pursuant to CPL 440.10.

It is hereby ORDERED that said appeal is dismissed.

Same memorandum as in *People v Neulander* ([appeal No. 1] – AD3d – [June 29, 2018] [4th Dept 2018]).

All concur except SMITH and WINSLOW, JJ., who dissent and vote to affirm in accordance with the same dissenting memorandum as in *People v Neulander* ([appeal No. 1] – AD3d – [June 29, 2018] [4th Dept 2018]).

Entered: June 29, 2018

Mark W. Bennett  
Clerk of the Court