

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

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**KA 17-00184**

PRESENT: CENTRA, J.P., PERADOTTO, DEJOSEPH, AND WINSLOW, JJ.

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THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

ANTONIO J., DEFENDANT-APPELLANT.  
(APPEAL NO. 2.)

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

JOHN J. FLYNN, DISTRICT ATTORNEY, BUFFALO (MICHAEL J. HILLERY OF COUNSEL), FOR RESPONDENT.

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Appeal from an adjudication of the Erie County Court (Kenneth F. Case, J.), rendered September 9, 2016. Defendant was adjudicated a youthful offender upon his plea of guilty to robbery in the second degree.

It is hereby ORDERED that the adjudication so appealed from is unanimously modified on the law by vacating the surcharge, crime victim assistance fee, and sentence, and as modified the adjudication is affirmed, and the matter is remitted to Erie County Court for resentencing.

Same memorandum as in *People v Antonio J.* ([appeal No. 1] – AD3d – [June 14, 2019] [4th Dept 2019]).

Entered: June 14, 2019

Mark W. Bennett  
Clerk of the Court