

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

**527**

**KA 16-01536**

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

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THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

NICHOLAS OSMAN, DEFENDANT-APPELLANT.  
(APPEAL NO. 3.)

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THOMAS THEOPHILOS, BUFFALO, FOR DEFENDANT-APPELLANT.

PATRICK E. SWANSON, DISTRICT ATTORNEY, MAYVILLE (JOHN C. ZUROSKI 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 Chautauqua County Court (James F. Bargnesi, A.J.), dated August 12, 2016. The order denied the motion of defendant to vacate a judgment of conviction pursuant to CPL 440.10.

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

Same memorandum as in *People v Osman* ([appeal No. 1] – AD3d – [July 31, 2019] [4th Dept 2019]).

Entered: July 31, 2019

Mark W. Bennett  
Clerk of the Court