

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

**1192**

**KA 17-00748**

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

GABRIELE BALLOWE, DEFENDANT-APPELLANT.

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THE LEGAL AID BUREAU OF BUFFALO, INC., BUFFALO (NICHOLAS P. DIFONZO OF COUNSEL), FOR DEFENDANT-APPELLANT.

JOHN J. FLYNN, DISTRICT ATTORNEY, BUFFALO (DAVID A. HERATY OF COUNSEL), FOR RESPONDENT.

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Appeal from a judgment of the Supreme Court, Erie County (Christopher J. Burns, J.), rendered December 20, 2016. The appeal was held by this Court by order entered June 7, 2019, decision was reserved and the matter was remitted to Supreme Court, Erie County, for further proceedings (173 AD3d 1666 [4th Dept 2019]). The proceedings were held and completed.

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

Memorandum: Defendant appeals from a judgment convicting her, upon her plea of guilty, of leaving the scene of an incident resulting in serious injury without reporting (Vehicle and Traffic Law § 600 [2] [a], [c] [i]). We previously held this case, reserved decision, and remitted the matter to Supreme Court "for a determination whether the People, in fact, presented new evidence to the second grand jury and, if not, whether dismissal of the indictment is warranted on that ground" (*People v Ballowe*, 173 AD3d 1666, 1668 [4th Dept 2019]). We now affirm.

Upon remittal, the court determined that the People satisfied their obligation to present new evidence to the second grand jury (see *People v Dykes*, 86 AD2d 191, 195 [2d Dept 1982]; *People v Martin*, 71 AD2d 928, 929 [2d Dept 1979]). Dismissal of the indictment thus is not warranted on that ground.

Entered: December 20, 2019

Mark W. Bennett  
Clerk of the Court