

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

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KA 19-01387

PRESENT: WHALEN, P.J., CURRAN, GREENWOOD, NOWAK, AND KEANE, JJ.

THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

DAVID JOHNSON, DEFENDANT-APPELLANT.
(APPEAL NO. 1.)

SARAH S. HOLT, CONFLICT DEFENDER, ROCHESTER (KATHLEEN P. REARDON OF COUNSEL), FOR DEFENDANT-APPELLANT.

SANDRA DOORLEY, DISTRICT ATTORNEY, ROCHESTER (LISA GRAY OF COUNSEL), FOR RESPONDENT.

Appeal from a judgment of the Monroe County Court (Douglas A. Randall, J.), rendered March 12, 2019. The judgment convicted defendant upon his plea of guilty of robbery in the second degree.

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

Memorandum: Defendant appeals from a judgment convicting him upon his plea of guilty of robbery in the second degree (Penal Law § 160.10 [1]). Contrary to defendant's contention, County Court did not abuse its discretion in declining to adjudicate defendant a youthful offender, particularly in view of the circumstances of the offense (*see People v Graham*, 218 AD3d 1359, 1360 [4th Dept 2023], *lv denied* 40 NY3d 1039 [2023]). In addition, upon our review of the record, we decline to exercise our discretion in the interest of justice to adjudicate defendant a youthful offender (*see id.*; *People v Mohawk*, 142 AD3d 1370, 1371 [4th Dept 2016]). Finally, the sentence is not unduly harsh or severe.

Entered: September 27, 2024

Ann Dillon Flynn
Clerk of the Court