

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

**172**

**KA 17-00214**

PRESENT: SMITH, J.P., PERADOTTO, LINDLEY, CURRAN, AND WINSLOW, JJ.

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THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

JOSEPH C. HOBBS, DEFENDANT-APPELLANT.  
(APPEAL NO. 2.)

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LEANNE LAPP, PUBLIC DEFENDER, CANANDAIGUA (MARY P. DAVISON OF COUNSEL), FOR DEFENDANT-APPELLANT.

R. MICHAEL TANTILLO, DISTRICT ATTORNEY, CANANDAIGUA (MELANIE J. BAILEY OF COUNSEL), FOR RESPONDENT.

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Appeal from a judgment of the Ontario County Court (Frederick G. Reed, A.J.), rendered August 5, 2016. The judgment convicted defendant, upon his plea of guilty, of attempted burglary in the second degree (two counts), petit larceny and criminal mischief in the second degree.

It is hereby ORDERED that the judgment so appealed from is unanimously modified on the law by vacating the sentence and as modified the judgment is affirmed, and the matter is remitted to Ontario County Court for further proceedings in accordance with the same memorandum as in *People v Hobbs* ([appeal No. 1] - AD3d - [Feb. 9, 2018] [4th Dept 2018]).

Entered: February 9, 2018

Mark W. Bennett  
Clerk of the Court