

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

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KA 13-01573

PRESENT: SMITH, J.P., CARNI, SCONIERS, AND VALENTINO, JJ.

THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

REYMUNDO NIEVES-ROJAS, DEFENDANT-APPELLANT.
(APPEAL NO. 2.)

THE LEGAL AID BUREAU OF BUFFALO, INC., BUFFALO (BARBARA J. DAVIES OF COUNSEL), FOR DEFENDANT-APPELLANT.

FRANK A. SEDITA, III, DISTRICT ATTORNEY, BUFFALO (DAVID A. HERATY OF COUNSEL), FOR RESPONDENT.

Appeal from a judgment of the Supreme Court, Erie County (Christopher J. Burns, J.), rendered August 20, 2013. The judgment convicted defendant, upon his plea of guilty, of attempted burglary in the second degree (two counts).

It is hereby ORDERED that the judgment so appealed from is unanimously modified as a matter of discretion in the interest of justice and on the law by vacating the sentence and as modified the judgment is affirmed, and the matter is remitted to Supreme Court, Erie County, for further proceedings in accordance with the same memorandum as in *People v Nieves-Rojas* ([appeal No. 1] ___ AD3d ___ [Mar. 20, 2015]).

Entered: March 20, 2015

Frances E. Cafarell
Clerk of the Court