

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

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**KA 16-02263**

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

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THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

TYLER L.E., DEFENDANT-APPELLANT.  
(APPEAL NO. 2.)

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WENDY S. SISSON, GENESEO, FOR DEFENDANT-APPELLANT.

KEITH A. SLEP, DISTRICT ATTORNEY, BELMONT (J. THOMAS FUOCO OF  
COUNSEL), FOR RESPONDENT.

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Appeal from a judgment of the Allegany County Court (Terrence M. Parker, J.), rendered June 14, 2016. The judgment convicted defendant, upon a jury verdict, of robbery in the third degree and criminal possession of a weapon in the fourth 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 Allegany County Court for resentencing.

Memorandum: Defendant appeals from a judgment convicting him upon a jury verdict of robbery in the third degree (Penal Law § 160.05) and criminal possession of a weapon in the fourth degree (§ 265.01 [1]). Contrary to defendant's contention, the sentence imposed on the count of robbery in the third degree is not unduly harsh or severe. Nevertheless, County Court erred in failing to impose a sentence for each count of which defendant was convicted (*see* CPL 380.20). We therefore modify the judgment by vacating the sentence, and we remit the matter to County Court for resentencing (*see People v Sturgis*, 69 NY2d 816, 817-818 [1987]; *People v Bradley*, 52 AD3d 1261, 1262 [4th Dept 2008], *lv denied* 11 NY3d 734 [2008]).

Entered: June 15, 2018

Mark W. Bennett  
Clerk of the Court