

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

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KA 15-00702

PRESENT: CENTRA, J.P., CARNI, LINDLEY, CURRAN, AND TROUTMAN, JJ.

THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

IRA T. WILLIS, ALSO KNOWN AS PEE WEE,
DEFENDANT-APPELLANT.

TIMOTHY P. DONAHER, PUBLIC DEFENDER, ROCHESTER (JANET C. SOMES OF
COUNSEL), FOR DEFENDANT-APPELLANT.

SANDRA DOORLEY, DISTRICT ATTORNEY, ROCHESTER (SCOTT MYLES OF COUNSEL),
FOR RESPONDENT.

Appeal from a judgment of the Supreme Court, Monroe County (Francis A. Affronti, J.), rendered July 3, 2012. The appeal was held by this Court by order entered May 4, 2018, decision was reserved and the matter was remitted to Supreme Court, Monroe County, for further proceedings (161 AD3d 1584 [4th Dept 2018]). The proceedings were held and completed.

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

Memorandum: We previously held this case, reserved decision, and remitted the matter to Supreme Court based on the court's failure to determine whether defendant should be afforded youthful offender status (*People v Willis*, 161 AD3d 1584, 1584 [4th Dept 2018]). We directed the court on remittal to "make and state for the record a determination whether defendant should be afforded youthful offender status" (*id.*). Upon remittal, the court declined to adjudicate defendant a youthful offender, and defendant now asks this Court to adjudicate him a youthful offender. We affirm. We decline to exercise our discretion in the interest of justice to adjudicate defendant a youthful offender (*see People v Lester*, 167 AD3d 1559, 1560 [4th Dept 2018], *lv denied* 32 NY3d 1206 [2019]; *People v Henderson*, 155 AD3d 1577, 1578 [4th Dept 2017], *lv denied* 30 NY3d 1105 [2018]). We further conclude that the sentence is not unduly harsh or severe.

Entered: July 31, 2019

Mark W. Bennett
Clerk of the Court