

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

885

KA 07-02180

PRESENT: SCUDDER, P.J., SMITH, CARNI, LINDLEY, AND MARTOCHE, JJ.

THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

JOSEPH R. SPENCER, DEFENDANT-APPELLANT.
(APPEAL NO. 2.)

THEODORE W. STENUF, MINOA, FOR DEFENDANT-APPELLANT.

CINDY F. INTSCHERT, DISTRICT ATTORNEY, WATERTOWN (HARMONY A. HEALY OF COUNSEL), FOR RESPONDENT.

Appeal from a judgment of the Jefferson County Court (Kim H. Martusewicz, J.), rendered April 16, 2007. The judgment convicted defendant, upon his plea of guilty, of attempted criminal possession of a controlled substance in the fifth degree and criminally possessing a hypodermic instrument.

It is hereby ORDERED that the judgment so appealed from is unanimously reversed on the law and the superior court information is dismissed.

Same Memorandum as in *People v Spencer* ([appeal No. 1] ___ AD3d ___ [Sept. 30, 2011]).

Entered: September 30, 2011

Patricia L. Morgan
Clerk of the Court