

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

929

KA 10-01917

PRESENT: SMITH, J.P., FAHEY, PERADOTTO, LINDLEY, AND SCONIERS, JJ.

THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

RICKY BAKER, DEFENDANT-APPELLANT.
(APPEAL NO. 2.)

ROBERT TUCKER, PALMYRA, FOR DEFENDANT-APPELLANT.

RICHARD M. HEALY, DISTRICT ATTORNEY, LYONS (MELVIN BRESSLER OF COUNSEL), FOR RESPONDENT.

Appeal from a judgment of the Wayne County Court (John B. Nesbitt, J.), rendered April 1, 2010. The judgment convicted defendant, upon a jury verdict, of arson 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 Wayne County Court for resentencing.

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

Entered: September 30, 2011

Patricia L. Morgan
Clerk of the Court