

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

1078

**KA 12-00997**

PRESENT: SMITH, J.P., PERADOTTO, CARNI, VALENTINO, AND WHALEN, JJ.

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THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

CHEYENNE J. KOONS, DEFENDANT-APPELLANT.  
(APPEAL NO. 2.)

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ROSEMARIE RICHARDS, SOUTH NEW BERLIN, FOR DEFENDANT-APPELLANT.

BROOKS T. BAKER, DISTRICT ATTORNEY, BATH (AMANDA M. CHAFEE OF  
COUNSEL), FOR RESPONDENT.

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Appeal from a judgment of the Steuben County Court (Marianne Furfure, A.J.), rendered February 18, 2011. The judgment convicted defendant, upon his plea of guilty, of attempted rape in the second degree.

It is hereby ORDERED that the case is held, the decision is reserved and the matter is remitted to Steuben County Court for further proceedings.

Same Memorandum as in *People v Koons* ([appeal No. 1] \_\_\_ AD3d \_\_\_ [Jan. 3, 2014]).

All concur except WHALEN, J., who dissents and votes to affirm in accordance with the same dissenting Memorandum as in *People v Koons* ([appeal No. 1] \_\_\_ AD3d \_\_\_ [Jan. 3, 2014]).

Entered: January 3, 2014

Frances E. Cafarell  
Clerk of the Court