

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

418

KA 14-01890

PRESENT: WHALEN, P.J., PERADOTTO, LINDLEY, DEJOSEPH, AND NEMOYER, JJ.

THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

JOSEPH TUCKER, III, DEFENDANT-APPELLANT.
(APPEAL NO. 2.)

MICHAEL J. STACHOWSKI, P.C., BUFFALO (MICHAEL J. STACHOWSKI OF COUNSEL), FOR DEFENDANT-APPELLANT.

FRANK A. SEDITA, III, DISTRICT ATTORNEY, BUFFALO (MICHAEL J. HILLERY OF COUNSEL), FOR RESPONDENT.

Appeal, by permission of a Justice of the Appellate Division of the Supreme Court in the Fourth Judicial Department, from an order of the Supreme Court, Erie County (Christopher J. Burns, J.), dated October 1, 2014. The order denied defendant's motion pursuant to CPL 440.10 to vacate the judgment convicting defendant of robbery in the second degree (six counts).

It is hereby ORDERED that said appeal is unanimously dismissed.

Same memorandum as in *People v Tucker* ([appeal No. 1] ___ AD3d ___ [May 6, 2016]).

Entered: May 6, 2016

Frances E. Cafarell
Clerk of the Court