
This memorandum is uncorrected and subject to revision before
publication in the New York Reports.

No. 204 SSM 21
The People &c.,
Appellant,
v.
Tyson Sydoriak,
Respondent.

Submitted by Christopher Blira-Koessler, for appellant.
Submitted by Alexis A. Ascher, for respondent.

MEMORANDUM:

The order of the Appellate Division should be reversed
and the case remitted to the Appellate Division, Second
Department, for consideration of the facts and issues raised but
not determined on the appeal to that court, for reasons stated in
People v Nealon (___ NY3d ___, 2015 NY Slip Op ___ [decided
herewith]).

People v Tyson Sydoriak

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LIPPMAN, Chief Judge (dissenting):

I dissent, and would affirm the order of the Appellate Division for the reasons stated in my dissenting opinion in People v Nealon (___ NY3d ___, 2015 NY Slip Op ___ [decided herewith]).

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On review of submissions pursuant to section 500.11 of the Rules, order reversed and case remitted to the Appellate Division, Second Department, for consideration of the facts and issues raised but not determined on the appeal to that court, in a memorandum. Judges Pigott, Abdus-Salaam, Stein and Fahey concur. Chief Judge Lippman dissents in a memorandum in which Judge Rivera concurs.

Decided October 27, 2015