

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

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**KA 19-01820**

PRESENT: CARNI, J.P., LINDLEY, NEMOYER, TROUTMAN, AND DEJOSEPH, JJ.

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THE PEOPLE OF THE STATE OF NEW YORK, APPELLANT,

V

MEMORANDUM AND ORDER

DEMONZ GUICE, DEFENDANT-RESPONDENT.

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JOHN J. FLYNN, DISTRICT ATTORNEY, BUFFALO (DANIEL J. PUNCH OF COUNSEL), FOR APPELLANT.

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Appeal from an order of the Supreme Court, Erie County (M. William Boller, A.J.), dated March 11, 2019. The order, inter alia, granted the motion of defendant to suppress a gun.

It is hereby ORDERED that the case is held, the decision is reserved and the matter is remitted to Supreme Court, Erie County, for further proceedings in accordance with the following memorandum: The People appeal from an order granting defendant's omnibus motion insofar as it sought to suppress a gun recovered from a vehicle. We agree with the People that Supreme Court erred in suppressing the gun without determining whether defendant had standing to challenge the search of the vehicle (*see People v Sweat*, 148 AD3d 1641, 1642 [4th Dept 2017]; *see also* CPL 710.60 [6]). We therefore hold the case, reserve decision, and remit the matter to Supreme Court to rule on that issue (*see Sweat*, 148 AD3d at 1642; *see generally People v Concepcion*, 17 NY3d 192, 194-195 [2011]).

Entered: March 13, 2020

Mark W. Bennett  
Clerk of the Court