

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

562

**KA 18-01026**

PRESENT: WHALEN, P.J., CENTRA, NEMOYER, CURRAN, AND WINSLOW, JJ.

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THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

JONATHAN WILLIAMS, DEFENDANT-APPELLANT.

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THE LEGAL AID BUREAU OF BUFFALO, INC., BUFFALO (ERIN A. KULESUS OF COUNSEL), FOR DEFENDANT-APPELLANT.

JOHN J. FLYNN, DISTRICT ATTORNEY, BUFFALO (ASHLEY R. LOWRY OF COUNSEL), FOR RESPONDENT.

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Appeal from a judgment of the Supreme Court, Erie County (Deborah A. Haendiges, J.), rendered March 1, 2018. The judgment convicted defendant upon his plea of guilty of aggravated driving while intoxicated, a class E felony, and criminal possession of a controlled substance in the seventh degree.

It is hereby ORDERED that the judgment so appealed from is unanimously affirmed.

Memorandum: Defendant appeals from a judgment convicting him upon his plea of guilty of, inter alia, aggravated driving while intoxicated (Vehicle and Traffic Law §§ 1192 [2-a] [b]; 1193 [1] [c] [i]). As the People correctly concede, the uniform sentence and commitment dated July 2, 2018, and the certificate of conviction erroneously recite that, with respect to the above crime, Supreme Court adjudicated defendant a second felony offender and imposed an indeterminate term of imprisonment of 1½ to 3 years. Those documents must therefore be amended to reflect that defendant was not adjudicated a second felony offender and that the court imposed an indeterminate term of imprisonment of 1 to 3 years (*see People v Morrow*, 167 AD3d 1516, 1518 [4th Dept 2018], *lv denied* 33 NY3d 951 [2019]; *People v Wesley B.*, 167 AD3d 1562, 1562 [4th Dept 2018]; *People v Kowal*, 159 AD3d 1346, 1347 [4th Dept 2018]).

Entered: October 2, 2020

Mark W. Bennett  
Clerk of the Court