

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

466

KA 19-00542

PRESENT: PERADOTTO, J.P., BANNISTER, MONTOUR, AND GREENWOOD, JJ.

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THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

JEFFREY ANDERSON, DEFENDANT-APPELLANT.

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JULIE CIANCA, PUBLIC DEFENDER, ROCHESTER, BANASIAK LAW OFFICE, PLLC (PIOTR BANASIAK OF COUNSEL), FOR DEFENDANT-APPELLANT.

SANDRA DOORLEY, DISTRICT ATTORNEY, ROCHESTER (NANCY GILLIGAN OF COUNSEL), FOR RESPONDENT.

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Appeal from a judgment of the Monroe County Court (John L. DeMarco, J.), rendered February 25, 2019. The judgment convicted defendant upon a jury verdict of course of sexual conduct against a child in the first degree and course of sexual conduct against a child in the second degree.

It is hereby ORDERED that the case is held, the decision is reserved and the matter is remitted to Monroe County Court for further proceedings in accordance with the following memorandum: On appeal from a judgment convicting him upon a jury verdict of course of sexual conduct against a child in the first degree (Penal Law § 130.75 [1] [a]) and course of sexual conduct against a child in second degree (§ 130.80 [1] [a]), defendant contends that he was denied his right to be present during the *Sandoval* conference. As the People correctly concede, the record does not establish whether defendant was present at the *Sandoval* conference. Because the outcome of the conference was not "wholly favorable and the surrounding circumstances do not negate the possibility that defendant might have made a meaningful contribution to the colloquy," we cannot conclude from this record that defendant's presence would have been superfluous (*People v Favor*, 82 NY2d 254, 267 [1993], *rearg denied* 83 NY2d 801 [1994]). We therefore hold the case, reserve decision, and remit the matter to County Court for a reconstruction hearing on whether defendant was present (*see People v Goodman*, 275 AD2d 969, 969 [4th Dept 2000]; *People v Jenner*, 202 AD2d 986, 986 [4th Dept 1994]).

Entered: June 30, 2023

Ann Dillon Flynn  
Clerk of the Court