

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

336

KA 23-01026

PRESENT: WHALEN, P.J., CURRAN, OGDEN, NOWAK, AND DELCONTE, JJ.

THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

RAYMOND E. DECKER, DEFENDANT-APPELLANT.

DAVID P. ELKOVITCH, AUBURN, FOR DEFENDANT-APPELLANT.

BRITTANY GROME ANTONACCI, DISTRICT ATTORNEY, AUBURN (CHRISTOPHER T. VALDINA OF COUNSEL), FOR RESPONDENT.

Appeal from a judgment of the Cayuga County Court (Thomas G. Leone, J.), rendered January 5, 2023. The judgment convicted defendant upon a jury verdict of aggravated family offense (six counts), criminal contempt in the second degree (six counts) and criminal contempt in the first degree.

It is hereby ORDERED that the judgment so appealed from is unanimously modified on the law by reversing those parts convicting defendant of criminal contempt in the second degree under counts 8 through 11 and 13 and 14 of the indictment and dismissing those counts, and as modified the judgment is affirmed.

Memorandum: Defendant appeals from a judgment convicting him upon a jury verdict of six counts of aggravated family offense (Penal Law § 240.75 [1]), six counts of criminal contempt in the second degree (§ 215.50 [3]), and one count of criminal contempt in the first degree (§ 215.51 [c]). We note at the outset that, as the People correctly concede, those parts of the judgment convicting defendant of the six counts of criminal contempt in the second degree must be reversed and those counts of the indictment dismissed because, as charged, they are inclusory concurrent counts of the aggravated family offense counts (*see generally People v Green*, 56 NY2d 427, 430-431 [1982], *rearg denied* 57 NY2d 775 [1982]; *People v Woods*, 229 AD3d 1073, 1075 [4th Dept 2024], *lv denied* 42 NY3d 973 [2024]). We have reviewed defendant's contentions and conclude that none warrants reversal or further modification of the judgment.

Entered: June 26, 2026

Ann Dillon Flynn
Clerk of the Court