

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

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**KA 15-01776**

PRESENT: SMITH, J.P., CENTRA, NEMOYER, CURRAN, AND TROUTMAN, JJ.

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THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

DENNIS R., JR., DEFENDANT-APPELLANT.

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FRANK H. HISCOCK LEGAL AID SOCIETY, SYRACUSE (KRISTEN N. MCDERMOTT OF COUNSEL), FOR DEFENDANT-APPELLANT.

WILLIAM J. FITZPATRICK, DISTRICT ATTORNEY, SYRACUSE (JAMES P. MAXWELL OF COUNSEL), FOR RESPONDENT.

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Appeal from an adjudication of the Supreme Court, Onondaga County (John J. Brunetti, A.J.), rendered February 23, 2015. The adjudication convicted defendant, upon his plea of guilty, of robbery in the first degree as a youthful offender.

It is hereby ORDERED that the adjudication so appealed from is unanimously modified on the law by vacating the surcharge and crime victim assistance fee and as modified the adjudication is affirmed.

Memorandum: Defendant appeals from a youthful offender adjudication based upon his plea of guilty of robbery in the first degree (Penal Law § 160.15 [4]). As the People correctly concede, the surcharge and crime victim assistance fee imposed must be vacated because defendant was a juvenile offender (see Penal Law §§ 60.00 [2]; 60.10; *People v Stump*, 100 AD3d 1457, 1458 [4th Dept 2012], *lv denied* 20 NY3d 1104 [2013]). We therefore modify the adjudication accordingly. Contrary to defendant's further contention, the sentence is not unduly harsh or severe.

Entered: March 16, 2018

Mark W. Bennett  
Clerk of the Court