

RAYMOND HILSTON, 168-3367

SOUTHPORT Correctional Facility

P.O. Box 2000

PINE CITY, NY 14871-2000

APPENDIXES, A-D

Appendix A: Decision of State Court of Appeals

Appendix B: Decision of State Supreme Court Denying Review

Appendix C: Decision of Court of Appeals Clerk for Reconsideration

Appendix D: Decision Denying Court's Clerk Reconsideration

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

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KA 16-01991**APPENDIX F**

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

THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

RAYMOND ALSTON, ALSO KNOWN AS RAYMOND AUSTIN,
 DEFENDANT-APPELLANT.THE LEGAL AID BUREAU OF BUFFALO, INC., BUFFALO (SHERRY A. CHASE OF
 COUNSEL), FOR DEFENDANT-APPELLANT.

RAYMOND ALSTON, DEFENDANT-APPELLANT PRO SE.

JOHN J. FLYNN, DISTRICT ATTORNEY, BUFFALO (MATTHEW B. POWERS OF
 COUNSEL), FOR RESPONDENT.

Appeal from a judgment of the Erie County Court (David W. Foley, A.J.), rendered October 25, 2016. The judgment convicted defendant, after a nonjury trial, of burglary in the second degree.

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

Memorandum: Defendant appeals from a judgment convicting him, following a nonjury trial, of burglary in the second degree (Penal Law § 140.25 [2]). We reject defendant's contentions in his main brief that the evidence is legally insufficient to establish his identity as one of the perpetrators of the crime and that the verdict is against the weight of the evidence with respect to the issue of identity (see *People v Garrison*, 39 AD3d 1138, 1140 [4th Dept 2007], lv denied 9 NY3d 844 [2007]). The trial evidence established that the victim awoke shortly after 2:00 a.m. to the sound of a loud crash in her apartment. She then discovered two men in her kitchen and one was pointing a gun at her. Although she could not see their faces, the victim observed that the taller of the two men, i.e., the man with the gun, was approximately six feet tall. He directed her to cover her face with a blanket and warned her not to look at them. The taller man restrained the victim while the shorter man searched her apartment.

Moments before the victim's home was invaded, one of the victim's neighbors had observed three men walking toward the end of the street where the victim lived. A short time later, just after 2:00 a.m., the neighbor observed the same three men coming from the direction of the victim's home. The neighbor noticed that two of the men were carrying

conclude that none warrants modification or reversal of the judgment.

Entered: July 31, 2019

APPENDIX A
Mark W. Bennett
Clerk of the Court

State of New York
Court of Appeals

BEFORE: HON. JANET DiFIORE, Chief Judge

THE PEOPLE OF THE STATE OF NEW YORK,

Respondent,
-against-

ORDER
DENYING
LEAVE

RAYMOND ALSTON, A/K/A
RAYMOND AUSTIN,

Appellant.

APPENDIX:

B

Appellant having applied for leave to appeal to this Court pursuant to Criminal Procedure Law § 460.20 from an order in the above-captioned case,*

UPON the papers filed and due deliberation, it is
ORDERED that the application is denied.

Dated:

OCT 16 2019

Janet DiFiore

Chief Judge

*Description of Order: Order of the Appellate Division, Fourth Department, entered July 31, 2019, affirming a judgment of the County Court, Erie County, rendered October 25, 2016.

APPENDIX B



*State of New York
Court of Appeals*

*John P. Asiello
Chief Clerk and
Legal Counsel to the Court*

*Clerk's Office
20 Eagle Street
Albany, New York 12207-1095*

November 8, 2019

Raymond Alston
#16-B-3367
Southport Correctional Facility
P.O. Box 2000
Pine City, NY 14871-2000

APPENDIX C

Re: People v Alston (Raymond) a/k/a Austin (Raymond)

Dear Mr. Alston:

Your application for reconsideration has been assigned to:

Hon. Janet DiFiore
Chief Judge of the Court of Appeals
Court of Appeals Hall
20 Eagle Street
Albany, NY 12207-1095

Additional submissions, if any, to the assigned Judge must be mailed within ten days after the date of this letter, and a copy must be served on each adverse party. Any response must be mailed within ten days after the due date for the applicant's additional submissions, with a copy also served on each adverse party.

Very truly yours,

John P. Asiello

cdb

cc: Hon. John J. Flynn,
Erie County District Attorney
Attn: Donna A. Milling, ADA

Sherry A. Chase, Esq.

APPENDIX C

State of New York

Court of Appeals

BEFORE: HON. JANET DiFIORE, Chief Judge

THE PEOPLE OF THE STATE OF NEW YORK,

Respondent,
-against-

RAYMOND ALSTON, A/K/A
RAYMOND AUSTIN,

Appellant.

**ORDER
DENYING
RECONSIDERATION**

APPENDIX: D

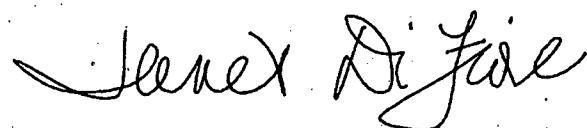
Appellant having moved for reconsideration in the above-captioned case of an application
for leave to appeal denied by order dated October 16, 2019;

UPON the papers filed and due deliberation, it is

ORDERED that the motion for reconsideration is denied.

Dated:

NOV 29 2019



Chief Judge

APPENDIX: D