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NYS Court of Appeals Reinstates Robbery Conviction in Albany County Case



ALBANY, NY- District Attorney P. David Soares announced today that the New York State Court of Appeals reversed a previous decision of the New York State Appellate Division, Third Department, in a case involving forcible robbery at a local shopping mall, and reinstated the verdict reached by the jury after trial. The case was argued by Assistant District Attorney Steven Sharp of the Legal Affairs Bureau. The decision can be found [here](#).

On April 23, 2010, defendant HAZEL GORDON, then age 35, of Albany, was found guilty after a jury trial of (1) Count of Robbery in the First Degree, (2) Counts of Robbery in the Second Degree, and (1) Count of Assault in the Second Degree. GORDON stole jewelry at Boscov's department store in the Town of Colonie, and then threatened loss prevention officers with a pen

when they tried to detain her, in addition to injuring a store employee with her car when he attempted to apprehend her in the parking lot. She was sentenced to an aggregate term of 5 years in State Prison and 5 years of Post-Release Supervision.

The defendant appealed the rulings, and the New York State Appellate Division, Third Department, modified the conviction of GORDON, specifically reducing the robbery counts to petit larceny. That decision can be found [here](#).

The Third Department reversed, finding that the People failed to prove defendant's use of force was for the purpose of overcoming resistance to the taking of the property or to its retention immediately thereafter solely because defendant and her accomplices were not ultimately captured with the stolen property in their possession. The People appealed arguing that the lack of possession of stolen property, upon capture, does not render the evidence underlying the purpose of a defendant's use of force legally insufficient as a matter of law and that the Third Department's decision needlessly rewards a defendant who uses force to retain the property, but manages to dispose of the property prior to being caught by the police. The Court of Appeals agreed with the People and reinstated the robbery convictions.

Assistant District Attorney Steven Sharp argued the Appellate Division's ruling on April 30, 2014. A webcast of the argument can be found on the [Court of Appeals website under Case 100 People v. Hazel E. Gordon](#).

For more information please contact Cecilia Walsh at (518) 275-4710.

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