

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

396

**KA 10-00230**

PRESENT: SMITH, J.P., FAHEY, PERADOTTO, LINDLEY, AND WHALEN, JJ.

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THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

ORDER

KENNETH J. GARTLER, DEFENDANT-APPELLANT.

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SCOTT F. RIORDAN, KENMORE, FOR DEFENDANT-APPELLANT.

LAWRENCE FRIEDMAN, DISTRICT ATTORNEY, BATAVIA (WILLIAM G. ZICKL OF COUNSEL), FOR RESPONDENT.

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Appeal from a judgment of the Genesee County Court (Robert C. Noonan, J.), rendered January 26, 2010. The judgment convicted defendant, upon a jury verdict, of driving while intoxicated, a class E felony, and driving while ability impaired.

It is hereby ORDERED that the judgment so appealed from is unanimously affirmed for reasons stated in the decision at County Court.

Entered: April 26, 2013

Frances E. Cafarell  
Clerk of the Court