

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

1322

KA 14-00476

PRESENT: SCUDDER, P.J., SMITH, VALENTINO, WHALEN, AND DEJOSEPH, JJ.

THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

JEFFREY WILLIAMS, DEFENDANT-APPELLANT.

JASON J. BOWMAN, ONTARIO, FOR DEFENDANT-APPELLANT.

RICHARD M. HEALY, DISTRICT ATTORNEY, LYONS (BRUCE A. ROSEKRANS OF COUNSEL), FOR RESPONDENT.

Appeal from a judgment of the Wayne County Court (John B. Nesbitt, J.), rendered February 13, 2014. The judgment convicted defendant, upon his plea of guilty, of driving while intoxicated, a misdemeanor.

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

Memorandum: Defendant appeals from a judgment convicting him, upon his plea of guilty, of driving while intoxicated as a misdemeanor (Vehicle and Traffic Law §§ 1192 [3]; 1193 [1] [b] [i]). We reject defendant's contention that County Court erred in refusing to suppress his statements to the arresting officer. The officer's initial questioning of defendant was investigatory in nature (*see People v Tieman*, 132 AD3d 703, 703-704; *People v Allen*, 15 AD3d 933, 934, *lv denied* 4 NY3d 883), and "he was not, as a matter of law, in custody at this time for purposes of the need to give *Miranda* warnings" (*People v Bennett*, 70 NY2d 891, 894; *see People v Fong*, 233 AD2d 115, 115-116, *lv denied* 89 NY2d 942).

Entered: December 23, 2015

Frances E. Cafarell
Clerk of the Court