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This memorandum is uncorrected and subject to revision before
publication in the New York Reports.

No. 139 SSM 6
The People &c.,
Respondent,
v.
Earl Bell, Jr.,
Appellant.

Submitted by Alex Smith, for appellant.
Submitted by Andrew R. Kass, for respondent.

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On review of submissions pursuant to section 500.11 of the Rules,
order modified by reducing defendant's conviction of depraved
indifference murder in the second degree to manslaughter in the
second degree and remitting to County Court, Orange County, for
resentencing and, as so modified, affirmed (see People v Bussey,
19 NY3d 231 [2012]). Chief Judge Lippman and Judges Graffeo,
Read, Smith, Pigott and Rivera concur.

Decided May 2, 2013