

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

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**KA 06-02853**

PRESENT: SMITH, J.P., CENTRA, FAHEY, GREEN, AND PINE, JJ.

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THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

ORDER

JACOB A. GARDNER, DEFENDANT-APPELLANT.

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TIMOTHY P. DONAHER, PUBLIC DEFENDER, ROCHESTER (JANET C. SOMES OF COUNSEL), FOR DEFENDANT-APPELLANT.

MICHAEL C. GREEN, DISTRICT ATTORNEY, ROCHESTER (STEPHEN X. O'BRIEN OF COUNSEL), FOR RESPONDENT.

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Appeal from a resentence of the Monroe County Court (John R. Schwartz, A.J.), rendered July 18, 2006. Defendant was resentenced to a determinate term of incarceration of 12 years and a five-year period of postrelease supervision upon his conviction of attempted kidnapping in the second degree.

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

Entered: February 6, 2009

JoAnn M. Wahl  
Clerk of the Court