

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

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KA 09-01845

PRESENT: CENTRA, J.P., PERADOTTO, LINDLEY, PINE, AND GORSKI, JJ.

THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

H. WAYNE MORGAN, DEFENDANT-APPELLANT.

FERN S. ADELSTEIN, OLEAN, FOR DEFENDANT-APPELLANT.

Appeal from an order of the Allegany County Court (Thomas P. Brown, J.), entered April 7, 2009. The order denied the renewed application of defendant to remove a condition of his sentence of probation.

It is hereby ORDERED that said appeal is unanimously dismissed.

Memorandum: Defendant appeals from an order denying his "renewed application" for permission to apply to the New York State Department of Motor Vehicles for reinstatement of his driving privileges. The restriction was imposed as a condition of his sentence of probation. Defendant may not take an appeal from the order either as of right (see CPL 450.10), or by permission (see CPL 450.15; see also *Matter of Pirro v Angiolillo*, 89 NY2d 351; *People v Cohen*, 222 AD2d 447, lv denied 88 NY2d 934). The appeal, therefore, must be dismissed (see e.g. *People v Ouni*, 67 AD3d 1029; *People v Santiago*, 63 AD3d 1656).

Entered: February 11, 2010

Patricia L. Morgan
Clerk of the Court