

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

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**KA 10-01943**

PRESENT: SCUDDER, P.J., PERADOTTO, CARNI, GREEN, AND GORSKI, JJ.

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THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

DAVID J. DITUCCI, DEFENDANT-APPELLANT.  
(APPEAL NO. 2.)

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FRANK A. ALOI, ROCHESTER, FOR DEFENDANT-APPELLANT.

MICHAEL C. GREEN, DISTRICT ATTORNEY, ROCHESTER (GEOFFREY KAEUPER OF COUNSEL), FOR RESPONDENT.

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Appeal from a resentence of the Monroe County Court (Elma A. Bellini, J.), rendered August 8, 2008. Defendant was resented to a determinate term of six years with five years postrelease supervision upon his conviction of assault in the second degree.

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

Same Memorandum as in *People v Ditucci* ([appeal No.1] \_\_\_\_ AD3d \_\_\_\_ [Feb. 10, 2011]).

Entered: February 10, 2011

Patricia L. Morgan  
Clerk of the Court