

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

601

**KA 10-00661**

PRESENT: SCUDDER, P.J., SMITH, CENTRA, LINDLEY, AND MARTOCHE, JJ.

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THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

PAUL R. TENNEY, ALSO KNOWN AS PAUL RYAN TENNEY,  
DEFENDANT-APPELLANT.  
(APPEAL NO. 1.)

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BRIDGET L. FIELD, ROCHESTER, FOR DEFENDANT-APPELLANT.

LAWRENCE FRIEDMAN, DISTRICT ATTORNEY, BATAVIA (MELISSA L. CIANFRINI OF  
COUNSEL), FOR RESPONDENT.

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Appeal from a judgment of the Genesee County Court (Robert C. Noonan, J.), rendered January 4, 2010. The judgment convicted defendant, upon his plea of guilty, of grand larceny in the third degree.

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

Memorandum: In appeal No. 1, defendant appeals from a judgment convicting him upon his plea of guilty of grand larceny in the third degree (Penal Law § 155.35 [1]) and imposing a sentence of a term of incarceration and, in appeal No. 2, he appeals from a judgment ordering him to pay restitution in the amount of \$108,091.10. Addressing first appeal No. 1, defendant's sole contention is that the sentence is unduly harsh and severe, and we reject that contention. As for appeal No. 2, defendant waived his sole contention therein, i.e., that County Court erred in failing to conduct a restitution hearing, inasmuch as he stipulated to the amount of restitution owed (*see People v Faso*, 82 AD3d 1584, 1584-1585, *lv denied* 17 NY3d 816, 952; *People v Brown*, 70 AD3d 1378, 1379).

Entered: June 8, 2012

Frances E. Cafarell  
Clerk of the Court