

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

1387

**KA 10-02159**

PRESENT: CENTRA, J.P., PERADOTTO, CARNI, LINDLEY, AND VALENTINO, JJ.

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THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

ERIC L. FORD, DEFENDANT-APPELLANT.

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TIMOTHY P. DONAHER, PUBLIC DEFENDER, ROCHESTER (DREW R. DUBRIN OF COUNSEL), FOR DEFENDANT-APPELLANT.

SANDRA DOORLEY, DISTRICT ATTORNEY, ROCHESTER (MATTHEW DUNHAM OF COUNSEL), FOR RESPONDENT.

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Appeal from a judgment of the Supreme Court, Monroe County (Daniel J. Doyle, J.), rendered May 7, 2009. The judgment convicted defendant, upon a jury verdict, of manslaughter in the first degree.

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

Memorandum: Defendant appeals from a judgment convicting him, following a jury trial, of manslaughter in the first degree (Penal Law § 125.20 [1]). Defendant failed to preserve for our review his challenge to Supreme Court's justification charge (see CPL 470.05 [2]) and, in any event, we conclude that "the justification charge, viewed in its entirety, was a correct statement of the law" (*People v Humphrey*, 109 AD3d 1173, 1175 [internal quotation marks omitted]; see *People v Johnson*, 103 AD3d 1226, 1226, *lv denied* 21 NY3d 944; *People v Poles*, 70 AD3d 1402, 1403, *lv denied* 15 NY3d 808). "Because the court did not erroneously instruct the jury regarding justification, defense counsel was not ineffective for failing to object to that charge" (*Johnson*, 103 AD3d at 1226; see *Humphrey*, 109 AD3d at 1175).

Entered: February 7, 2014

Frances E. Cafarell  
Clerk of the Court