

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

1015

KA 14-01814

PRESENT: CENTRA, J.P., PERADOTTO, CARNI, WHALEN, AND DEJOSEPH, JJ.

THE PEOPLE OF THE STATE OF NEW YORK, APPELLANT,

V

MEMORANDUM AND ORDER

WILLIAM K. BALL, DEFENDANT-RESPONDENT.

FRANK A. SEDITA, III, DISTRICT ATTORNEY, BUFFALO (MATTHEW B. POWERS OF COUNSEL), FOR APPELLANT.

MARK D. GROSSMAN, NIAGARA FALLS (LEONARD G. TILNEY, JR., OF COUNSEL), FOR DEFENDANT-RESPONDENT.

Appeal from an order of the Supreme Court, Erie County (Russell P. Buscaglia, A.J.), entered July 17, 2014. The order granted the motion of defendant to suppress his statements to the police and certain physical evidence.

It is hereby ORDERED that the order so appealed from is unanimously affirmed and the indictment is dismissed.

Memorandum: The People appeal from an order granting defendant's motion to suppress his statements to the police and certain physical evidence recovered after his vehicle was pulled over on the suspicion that he was driving while intoxicated. We affirm. On the record before us, we cannot conclude that Supreme Court's determination that the police lacked reasonable suspicion to stop defendant's vehicle was "clearly erroneous" (*People v Kelley*, 91 AD3d 1318, 1318, lv denied 19 NY3d 963 [internal quotation marks omitted]; see generally *People v Jones*, 9 AD3d 837, 838-839, lv denied 3 NY3d 708, reconsideration denied 4 NY3d 745). Moreover, because the granting of defendant's motion resulted in the suppression of all evidence of the crimes with which defendant was charged, the indictment must be dismissed (see *People v East*, 52 AD3d 1248, 1248, lv denied 11 NY3d 736).

Entered: October 2, 2015

Frances E. Cafarell
Clerk of the Court