

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

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KA 19-01406

PRESENT: SMITH, J.P., CURRAN, MONTOUR, NOWAK, AND DELCONTE, JJ.

THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

TYRONE L. LONG, DEFENDANT-APPELLANT.

JULIE CIANCA, PUBLIC DEFENDER, ROCHESTER (JANE I. YOON OF COUNSEL),
FOR DEFENDANT-APPELLANT.

SANDRA DOORLEY, DISTRICT ATTORNEY, ROCHESTER (BRIDGET L. FIELD OF
COUNSEL), FOR RESPONDENT.

Appeal from a judgment of the Monroe County Court (Victoria M. Argento, J.), rendered February 1, 2018. The judgment convicted defendant upon a nonjury verdict of aggravated driving while intoxicated, aggravated unlicensed operation of a motor vehicle in the first degree, driving while intoxicated, endangering the welfare of a child, criminal mischief in the fourth degree and attempted assault in the third degree.

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

Memorandum: On appeal from a judgment convicting him upon a nonjury verdict of, inter alia, aggravated driving while intoxicated (Vehicle and Traffic Law §§ 1192 [2-a] [b]; 1193 [1] [c] [i] [B]), aggravated unlicensed operation of a motor vehicle in the first degree (§ 511 [3] [a] [i]) and driving while intoxicated (§§ 1192 [3]; 1193 [1] [b] [i]), defendant contends that the verdict is against the weight of the evidence with respect to the common element of operation of a motor vehicle. We reject that contention. " 'Where, as here, witness credibility is of paramount importance to the determination of guilt or innocence,' we must afford great deference to the fact-finder's opportunity to view the witnesses, hear their testimony and observe their demeanor" (*People v Friello*, 147 AD3d 1519, 1520 [4th Dept 2017], *lv denied* 29 NY3d 1031 [2017]; *see People v Harris*, 15 AD3d 966, 967 [4th Dept 2005], *lv denied* 4 NY3d 831 [2005]). Viewing the evidence in light of the elements of the crimes in this nonjury trial (*see People v Danielson*, 9 NY3d 342, 349 [2007]), we conclude that, although a different verdict would not have been unreasonable, County Court did not fail to give the evidence the weight it should be accorded (*see People v McCutcheon*, 219 AD3d 1698,

1700 [4th Dept 2023], *lv denied* 40 NY3d 1040 [2023]; *see generally* *People v Bleakley*, 69 NY2d 490, 495 [1987]).

Entered: June 14, 2024

Ann Dillon Flynn
Clerk of the Court