

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

788

**KA 10-00703**

PRESENT: SCUDDER, P.J., SMITH, CARNI, SCONIERS, AND GREEN, JJ.

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THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

JOHN GROSSMAN, DEFENDANT-APPELLANT.

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TIMOTHY P. DONAHER, PUBLIC DEFENDER, ROCHESTER (JAMES ECKERT OF COUNSEL), FOR DEFENDANT-APPELLANT.

MICHAEL C. GREEN, DISTRICT ATTORNEY, ROCHESTER (NANCY GILLIGAN OF COUNSEL), FOR RESPONDENT.

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Appeal from an order of the Monroe County Court (Frank P. Geraci, Jr., J.), entered February 22, 2010. The order denied defendant's petition to modify the determination that he is a level three risk pursuant to the Sex Offender Registration Act.

It is hereby ORDERED that the order so appealed from is unanimously affirmed without costs.

Memorandum: Defendant appeals from an order denying his petition pursuant to Correction Law § 168-o (2) seeking to modify the prior determination that he is a level three risk pursuant to the Sex Offender Registration Act (§ 168 *et seq.*). As County Court properly determined, "defendant failed to meet his 'burden of proving the facts supporting the requested modification by clear and convincing evidence' " (*People v Higgins*, 55 AD3d 1303, quoting § 168-o [2]; see *People v McCollum*, 83 AD3d 1504; *People v Cullen*, 79 AD3d 1677, *lv denied* 16 NY3d 709).

Entered: June 10, 2011

Patricia L. Morgan  
Clerk of the Court