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This memorandum is uncorrected and subject to revision before
publication in the New York Reports.

No. 76 SSM 50
The People &c.,
Respondent,
v.
Dwayne Middleton,
Appellant.

Submitted by Steven J. Miraglia, for appellant.
Submitted by Maria Park, for respondent.

MEMORANDUM:

The order of the Appellate Division should be affirmed
without costs.

Defendant's constitutional arguments are unpreserved.
The record supports the determination of the courts below that
defendant is a level 3 sex offender.

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On review of submissions pursuant to section 500.11 of the Rules, order affirmed, without costs, in a memorandum. Judges Ciparick, Graffeo, Read, Smith, Pigott and Jones concur. Chief Judge Lippman took no part.

Decided February 17, 2009