

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

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CA 19-00355

PRESENT: CARNI, J.P., LINDLEY, CURRAN, TROUTMAN, AND BANNISTER, JJ.

IN THE MATTER OF THE APPLICATION OF STATE OF
NEW YORK, PETITIONER-RESPONDENT,

V

MEMORANDUM AND ORDER

JEDEDIAH H., RESPONDENT-APPELLANT,
FOR CIVIL MANAGEMENT PURSUANT TO ARTICLE 10 OF
THE MENTAL HYGIENE LAW.

SARAH M. FALLON, DIRECTOR, MENTAL HEALTH LEGAL SERVICE, ROCHESTER
(NEIL T. CAMPBELL OF COUNSEL), FOR RESPONDENT-APPELLANT.

LETITIA JAMES, ATTORNEY GENERAL, ALBANY (FRANK BRADY OF COUNSEL), FOR
PETITIONER-RESPONDENT.

Appeal from an order of the Supreme Court, Ontario County (Craig J. Doran, J.), entered November 14, 2018 in a proceeding pursuant to Mental Hygiene Law article 10. The order, inter alia, committed respondent to a secure treatment facility.

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

Memorandum: Respondent appeals from an order revoking his regimen of strict and intensive supervision and treatment (SIST), determining that he is a dangerous sex offender requiring confinement, and committing him to a secure treatment facility (see Mental Hygiene Law § 10.01 *et seq.*). Contrary to respondent's contention, viewing the evidence in the light most favorable to petitioner (see *Matter of State of New York v John S.*, 23 NY3d 326, 348 [2014], *rearg denied* 24 NY3d 933 [2014]), we conclude that there is sufficient evidence to support the finding that respondent is a dangerous sex offender requiring confinement, i.e., that he has "a strong predisposition to commit sex offenses, and such an inability to control behavior, that [he] is likely to be a danger to others and to commit sex offenses if not confined to a secure treatment facility" (§ 10.03 [e]; see *Matter of State of New York v Jamaal A.*, 167 AD3d 1526, 1527 [4th Dept 2018], *lv denied* 33 NY3d 902 [2019]; *Matter of State of New York v Edward T.*, 161 AD3d 1589, 1589 [4th Dept 2018]; see generally *Matter of State of New York v Robert F.*, 25 NY3d 448, 454-455 [2015]).

We further conclude that the determination that respondent is a dangerous sex offender requiring confinement is not against the weight of the evidence. The evidence at the hearing established that

respondent had been determined to pose a high risk of reoffending based on the Static-99R assessment tool; that respondent had failed to fully engage in sex offender treatment; that he had committed multiple SIST violations that bore on his risk of sexually reoffending, including possession of a smart phone containing, among other things, sexually suggestive videos of young children; and that he had violated other conditions of SIST that, although not sexual in nature, nevertheless also bore on his risk of recidivism (*see generally Jamaal A.*, 167 AD3d at 1526; *Edward T.*, 161 AD3d at 1589).

Entered: June 12, 2020

Mark W. Bennett
Clerk of the Court