

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

**764**

**KA 11-02494**

PRESENT: SMITH, J.P., FAHEY, PERADOTTO, SCONIERS, AND VALENTINO, JJ.

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THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

SCOTT M. COOK, DEFENDANT-APPELLANT.

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TIMOTHY P. DONAHER, PUBLIC DEFENDER, ROCHESTER (JANET C. SOMES OF COUNSEL), FOR DEFENDANT-APPELLANT.

SANDRA DOORLEY, DISTRICT ATTORNEY, ROCHESTER (STEPHEN X. O'BRIEN OF COUNSEL), FOR RESPONDENT.

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Appeal from a judgment of the Monroe County Court (Alex R. Renzi, J.), rendered April 15, 2009. The judgment convicted defendant, upon his plea of guilty, of sexual abuse in the first degree (two counts).

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

Memorandum: Defendant appeals from a judgment convicting him upon his plea of guilty of two counts of sexual abuse in the first degree (Penal Law § 130.65 [2]). Defendant contends that the order of protection issued at the time of sentencing is invalid because it exceeds the maximum permissible duration of such an order, and that County Court erred in failing to take into account his jail time credit in determining the duration of the order of protection. As defendant correctly concedes, his contentions are unpreserved for our review inasmuch as he did not object to the duration of the order of protection at sentencing (*see People v Hoyt*, 107 AD3d 1426, 1426, lv denied 21 NY3d 1042; *People v Decker*, 77 AD3d 675, 675, lv denied 15 NY3d 952), and we decline to exercise our power to review them as a matter of discretion in the interest of justice (*see CPL 470.15 [3] [c]*).

Entered: June 20, 2014

Frances E. Cafarell  
Clerk of the Court