

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

1267

KA 13-02072

PRESENT: SCUDDER, P.J., CENTRA, FAHEY, LINDLEY, AND DEJOSEPH, JJ.

THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

REGINALD PRESSEY, DEFENDANT-APPELLANT.

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

SANDRA DOORLEY, DISTRICT ATTORNEY, ROCHESTER (NANCY GILLIGAN OF COUNSEL), FOR RESPONDENT.

Appeal from an order of the Monroe County Court (James J. Piampiano, J.), entered October 10, 2013. The order determined that defendant 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 determining that he is a level three risk pursuant to the Sex Offender Registration Act (Correction Law § 168 *et seq.*). Contrary to defendant's contention, County Court did not deny him due process of law by relying solely on the case summary for its determination to assess 20 points for category 13, conduct while confined. The case summary stated that defendant had 38 "more serious Tier III" infractions, which included assault, weapon possession, arson and lewd conduct, a sex offense. Defendant failed to contest the underlying facts contained in the report, and thus his contention that the court violated his due process rights by relying solely upon the case summary is without merit (*see People v Okafor*, 117 AD3d 1579, 1580, *lv denied* 24 NY3d 902; *People v Vaillancourt*, 112 AD3d 1375, 1375-1376, *lv denied* 22 NY3d 864; *cf. People v Judson*, 50 AD3d 1242, 1243).

Entered: January 2, 2015

Frances E. Cafarell
Clerk of the Court