

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

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KA 16-00164

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

THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

ANDREW SHERADIN, DEFENDANT-APPELLANT.

TIMOTHY P. DONAHER, PUBLIC DEFENDER, ROCHESTER (KIMBERLY F. DUGUAY 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.), dated December 8, 2015. 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.*). We reject defendant's contention that County Court abused its discretion in denying his request for a downward departure from his presumptive risk level. Even assuming, *arguendo*, that defendant established that his response to treatment was exceptional so as to warrant a downward departure, we conclude upon examining all of the relevant circumstances that the court providently exercised its discretion in denying defendant's request (*see People v Smith*, 122 AD3d 1325, 1326 [4th Dept 2014]).

Entered: February 2, 2018

Mark W. Bennett
Clerk of the Court