

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

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**KA 19-00593**

PRESENT: WHALEN, P.J., CENTRA, LINDLEY, TROUTMAN, AND WINSLOW, JJ.

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THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

JOSEPH CENTOFANTI, DEFENDANT-APPELLANT.

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DAVID J. FARRUGIA, PUBLIC DEFENDER, LOCKPORT (JOSEPH G. FRAZIER OF COUNSEL), FOR DEFENDANT-APPELLANT.

JOSEPH CENTOFANTI, DEFENDANT-APPELLANT PRO SE.

CAROLINE A. WOJTASZEK, DISTRICT ATTORNEY, LOCKPORT (LAURA T. JORDAN OF COUNSEL), FOR RESPONDENT.

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Appeal from an order of the Niagara County Court (Matthew J. Murphy, III, J.), entered February 22, 2019. 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: On appeal from an order determining that he is a level three risk pursuant to the Sex Offender Registration Act ([SORA] Correction Law § 168 *et seq.*), defendant contends that County Court erred in using a risk assessment instrument (RAI) prepared by the District Attorney (DA) because it did not comply with the SORA Risk Assessment Guidelines and Commentary (2006). We reject that contention. "If the [DA] seeks a determination that differs from the recommendation submitted by the [B]oard [of Examiners of Sex Offenders], . . . the [DA] shall provide to the court and the sex offender a statement setting forth the determinations sought by the [DA] together with the reasons for seeking such determinations" (§ 168-k [2]). The RAI prepared by the DA, by which she requested the assessment of 30 points under risk factor 3, was such a statement. To the extent that defendant contends that the court erred in assessing him those points, he failed to preserve his contention for our review (*see People v Gillotti*, 23 NY3d 841, 854 [2014]).

Finally, we have reviewed the contentions in defendant's pro se supplemental brief and conclude that none warrants reversal or

modification of the order.

Entered: January 31, 2020

Mark W. Bennett  
Clerk of the Court