

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

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CA 22-00880

PRESENT: WHALEN, P.J., CURRAN, MONTOUR, OGDEN, AND DELCONTE, JJ.

IN THE MATTER OF THE DISCHARGE OF STEVEN M.,
FROM CENTRAL NEW YORK PSYCHIATRIC CENTER
PURSUANT TO MENTAL HYGIENE LAW SECTION 10.09,
PETITIONER-APPELLANT,

V

MEMORANDUM AND ORDER

STATE OF NEW YORK, NEW YORK STATE OFFICE OF
MENTAL HEALTH AND NEW YORK STATE DEPARTMENT
OF CORRECTIONS AND COMMUNITY SUPERVISION,
RESPONDENTS-RESPONDENTS.

D.J. & J.A. CIRANDO, PLLC, SYRACUSE (REBECCA L. KONST OF COUNSEL), FOR
PETITIONER-APPELLANT.

LETITIA JAMES, ATTORNEY GENERAL, ALBANY (KATE H. NEPVEU OF COUNSEL),
FOR RESPONDENTS-RESPONDENTS.

Appeal from an order of the Oneida County Court (Gregory J. Amoroso, A.J.), entered May 3, 2022, in a proceeding pursuant to Mental Hygiene Law article 10. The order, inter alia, continued the confinement of petitioner to a secure treatment facility.

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

Memorandum: Petitioner appeals from an order, entered after an annual review hearing pursuant to Mental Hygiene Law § 10.09 (d), determining that he is a dangerous sex offender requiring confinement under section 10.03 (e), and directing his continued confinement to a secure treatment facility (see § 10.09 [h]). We affirm.

Petitioner contends that his sex offender treatment plan should be modified to focus on his diagnoses of antisocial personality disorder and the condition of hypersexuality, rather than a provisional diagnosis of pedophilic disorder. That contention is raised for the first time on appeal, and thus is not properly before us (see *Matter of State of New York v Edward T.*, 161 AD3d 1589, 1589 [4th Dept 2018]; *Matter of State of New York v Breeden*, 140 AD3d 1649, 1650 [4th Dept 2016]). In any event, we note that the adequacy of a sex offender treatment plan is not before the court in an annual review proceeding under Mental Hygiene Law § 10.09 (d) (see generally

Matter of James WW. v State of New York, 201 AD3d 1069, 1071 [3d Dept 2022], *lv denied* 38 NY3d 909 [2022]).

Entered: October 6, 2023

Ann Dillon Flynn
Clerk of the Court