

Supreme Court of the State of New York
Appellate Division: Second Judicial Department

D28937
H/hu

_____AD3d_____

Submitted - October 22, 2010

REINALDO E. RIVERA, J.P.
CHERYL E. CHAMBERS
LEONARD B. AUSTIN
SANDRA L. SGROI, JJ.

2008-10702

DECISION & ORDER

People of State of New York, respondent,
v Steven Farahat, appellant.

Lynn W. L. Fahey, New York, N.Y. (Sarah J. Berger of counsel), for appellant.

Daniel M. Donovan, Jr., District Attorney, Staten Island, N.Y. (Morrie I. Kleinbart and Michael Shollar of counsel), for respondent.

Appeal by the defendant from an order of the Supreme Court, Richmond County (Rienzi, J.), dated October 17, 2008, which, after a hearing, adjudicated him a level two sex offender pursuant to Correction Law article 6-C.

ORDERED that the order is affirmed, without costs or disbursements.

The Supreme Court correctly assessed the defendant 15 points under risk factor 14 of the Sex Offender Registration Act (hereinafter SORA) Guidelines, as the defendant was not under supervision in New York (*see* Sex Offender Registration Act: Risk Assessment Guidelines and Commentary at 17 [2006 ed] [hereinafter SORA Guidelines]). While a sex offender convicted in another jurisdiction who subsequently relocates to New York should not be assessed any points for this factor if he or she has “satisfactorily completed” the terms of that jurisdiction’s community supervision, the defendant in this case did not satisfactorily complete the terms of Florida’s supervision, because while he was on probation supervision for a sex offense committed in that jurisdiction, he violated Florida’s Sex Offender Registration Law (*see* Fla Stat Ann § 943.0435), resulting in his imprisonment (*see* SORA Guidelines at 17; *People v English*, 60 AD3d 923).

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The defendant's contention that assessing points for both unsatisfactory conduct while supervised and release without supervision constitutes "double counting" is without merit (*see People v Mendez*, 60 AD3d 923).

The defendant's remaining contention is without merit.

RIVERA, J.P., CHAMBERS, AUSTIN and SGROI, JJ., concur.

ENTER:


Matthew G. Kiernan
Clerk of the Court