

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

1143

KA 07-02575

PRESENT: SCUDDER, P.J., SMITH, CARNI, PINE, AND GORSKI, JJ.

THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

WILLIE J. SINGLETON, DEFENDANT-APPELLANT.

JOHN E. TYO, SHORTSVILLE, FOR DEFENDANT-APPELLANT.

WILLIE J. SINGLETON, DEFENDANT-APPELLANT PRO SE.

R. MICHAEL TANTILLO, DISTRICT ATTORNEY, CANANDAIGUA (CATHERINE A. WALSH OF COUNSEL), FOR RESPONDENT.

Appeal from a judgment of the Ontario County Court (Frederick G. Reed, J.), rendered November 27, 2007. The judgment convicted defendant, upon a jury verdict, of failing to register as a sex offender.

It is hereby ORDERED that the judgment so appealed from is unanimously affirmed.

Memorandum: Defendant appeals from a judgment convicting him following a jury trial of failing to register as a sex offender, a class D felony inasmuch as it is his second conviction of this offense (Correction Law § 168-f [3]; § 168-t). Viewing the evidence in light of the elements of the crime as charged to the jury (*see People v Danielson*, 9 NY3d 342, 349), we conclude that the verdict is not against the weight of the evidence (*see generally People v Bleakley*, 69 NY2d 490, 495). By failing to object to County Court's ultimate *Sandoval* ruling, defendant failed to preserve for our review his contention that the ruling constitutes an abuse of discretion (*see People v Hawkes*, 39 AD3d 1209, 1211, *lv denied* 9 NY3d 844, 845; *People v O'Connor*, 19 AD3d 1154, *lv denied* 5 NY3d 831). In any event, "the proof of defendant's guilt is overwhelming, and there is no significant probability that the jury would have acquitted defendant had it not been for [the alleged] error. Thus, [the alleged] error is harmless" (*People v Arnold*, 298 AD2d 895, 896, *lv denied* 99 NY2d 580; *see generally People v Crimmins*, 36 NY2d 230, 241-242). The sentence is not unduly harsh or severe.

Defendant failed to preserve for our review the contentions in his pro se supplemental brief with respect to his adjudication as a level three sex offender, the allegedly improper admission in evidence of his certificate of conviction establishing his prior failure to

register, and the timeliness of his arraignment (see CPL 470.05 [2]), and we decline to exercise our power to review those contentions as a matter of discretion in the interest of justice (see CPL 470.15 [6] [a]). We have reviewed the remaining contentions of defendant in his pro se supplemental brief and conclude that they are without merit.

Entered: October 2, 2009

Patricia L. Morgan
Clerk of the Court