

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

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KA 13-00801

PRESENT: SMITH, J.P., CARNI, LINDLEY, VALENTINO, AND WHALEN, JJ.

THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

JON C. MARTIN, DEFENDANT-APPELLANT.

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

MICHAEL J. VIOLANTE, DISTRICT ATTORNEY, LOCKPORT (LAURA T. BITTNER OF COUNSEL), FOR RESPONDENT.

Appeal from an order of the Niagara County Court (Sara S. Farkas, J.), dated March 21, 2013. 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.). Contrary to defendant's contention, the nearly six-year delay in rendering a risk classification determination did not deny him due process and was not " 'so outrageously arbitrary as to constitute gross abuse of governmental authority' " (*People v Wilkes*, 53 AD3d 1073, 1074, lv denied 11 NY3d 710). Contrary to defendant's related contentions, County Court did not misapply the relevant case law, and vacatur of his risk classification is not warranted under the facts and circumstances of this case (*cf. People v Gregory*, 71 AD3d 1559, 1560).

Entered: July 3, 2014

Frances E. Cafarell
Clerk of the Court