

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

201

KA 14-01229

PRESENT: CENTRA, J.P., PERADOTTO, CARNI, SCONIERS, AND DEJOSEPH, JJ.

THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

ANTWANE WALKER, DEFENDANT-APPELLANT.

J. SCOTT PORTER, SENECA FALLS, FOR DEFENDANT-APPELLANT.

WILLIAM J. FITZPATRICK, DISTRICT ATTORNEY, SYRACUSE (VICTORIA M. WHITE OF COUNSEL), FOR RESPONDENT.

Appeal from an order of the Onondaga County Court (Thomas J. Miller, J.), dated June 13, 2014. The order determined that defendant is a level two 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 two risk pursuant to the Sex Offender Registration Act (Correction Law § 168 *et seq.*). Contrary to defendant's contention, County Court's determination that defendant is a level two risk is based upon clear and convincing evidence (*see generally* § 168-n [3]). The evidence supports the court's determination that defendant's primary purpose in establishing the relationship with the victim was to victimize her (*see People v Washington*, 91 AD3d 1277, 1277, *lv denied* 19 NY3d 801). Defendant approached the victim on a bus and thereafter initiated contact with her through Facebook and by cell phone, even though she had not given defendant her last name or cell phone number. Defendant then persistently texted the victim and invited her to dinner, but instead took her to a hotel where he raped her. "[T]he self-serving denial of defendant that he established the relationship for the purpose of victimizing the victim presented an issue of credibility for the court" (*People v Romana*, 35 AD3d 1241, 1242, *lv denied* 8 NY3d 810).

Entered: February 13, 2015

Frances E. Cafarell
Clerk of the Court