

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

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KA 09-01830

PRESENT: SCUDDER, P.J., CENTRA, CARNI, AND PINE, JJ.

THE PEOPLE OF THE STATE OF NEW YORK, APPELLANT,

V

MEMORANDUM AND ORDER

JOSEPH KINDRED, DEFENDANT-RESPONDENT.

FRANK A. SEDITA, III, DISTRICT ATTORNEY, BUFFALO (SHAWN P. HENNESSY OF COUNSEL), FOR APPELLANT.

Appeal from an order of the Supreme Court, Erie County (John L. Michalski, A.J.), dated June 18, 2009. The order granted the petition of defendant pursuant to the Sex Offender Registration Act and relieved defendant of any further registration requirements.

It is hereby ORDERED that the order so appealed from is unanimously reversed on the law without costs and the petition is denied.

Memorandum: The People appeal from an order granting the petition of defendant pursuant to the Sex Offender Registration Act ([SORA] Correction Law § 168 *et seq.*) seeking to relieve him from any further registration requirements. Defendant's assessment as a risk level two sex offender in 1996 was reduced to a risk level one pursuant to defendant's 2004 application for redetermination following the stipulation of settlement in *Doe v Pataki* (120 F3d 1263, *cert denied* 522 US 1122). We agree with the People that Supreme Court erred in granting defendant's petition. Defendant is ineligible for relief from SORA's registration requirements because he has not yet been registered as a sex offender for the requisite 20 years pursuant to Correction Law § 168-h (1) (*see generally People v Pero*, 49 AD3d 1010, 1011; *Doe v Pataki*, 481 F3d 69).

Entered: March 19, 2010

Patricia L. Morgan
Clerk of the Court