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This memorandum is uncorrected and subject to revision before
publication in the New York Reports.

No. 151
In the Matter of the State of New
York,
Respondent,
v.
Daniel F. (Anonymous),
Appellant.

Lisa L. Paine, for appellant.
Kathleen M. Treasure, for respondent.

MEMORANDUM:

The order of the Appellate Division should be reversed,
without costs, and the order of Supreme Court reinstated.

In this Mental Hygiene article 10 proceeding, Supreme
Court, after a bench trial, found that respondent is not a
dangerous sex offender requiring confinement pursuant to Mental

Hygiene Law § 10.11 (d), and ordered his discharge from confinement subject to a regimen of strict and intensive supervision. The Appellate Division reversed concluding that respondent is a dangerous sex offender requiring confinement 77 AD3d 1400 [4th Dept 2010]).

In a case such as this, where a factual disagreement exists between the trial court and the Appellate Division, we review the record to determine which factual findings more nearly comport with the weight of the evidence. Upon review of the record here, we conclude that the findings of Supreme Court more nearly comport with the weight of the evidence (see Matter of Sheila G., 61 NY2d 368, 386 [1984]).

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Order reversed, without costs, and order of Supreme Court, Onondaga County, reinstated, in a memorandum. Chief Judge Lippman and Judges Ciparick, Graffeo, Read, Smith, Pigott and Jones concur.

Decided October 30, 2012