

**Supreme Court of the State of New York**  
**Appellate Division: Second Judicial Department**

D55520  
G/htr

\_\_\_\_\_AD3d\_\_\_\_\_

Submitted - February 9, 2018

CHERYL E. CHAMBERS, J.P.  
JEFFREY A. COHEN  
JOSEPH J. MALTESE  
BETSY BARROS, JJ.

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2017-03786

DECISION & ORDER

People of State of New York, respondent,  
v Fransis Lima-Sanchez, also known as Fransis  
Lima, appellant.

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Laurette D. Mulry, Riverhead, NY (Kirk R. Brandt of counsel), for appellant.

Timothy D. Sini, District Attorney, Riverhead, NY (Timothy P. Finnerty of counsel),  
for respondent.

Appeal by the defendant from an order of the County Court, Suffolk County (Barbara Kahn, J.), dated February 22, 2017, which, after a hearing, designated him a level two sex offender pursuant to Correction Law article 6-C.

ORDERED that the order is affirmed, without costs or disbursements.

We agree with the County Court's assessment of 20 points under risk factor 7, based on a finding that the victim was a stranger to the defendant. The evidence submitted by the People confirmed the absence of any family relationship between the defendant and the victim, and while the defendant lived next door to the victim and was an acquaintance of the victim's father, the victim's grand jury testimony confirms that the victim herself was a stranger to the defendant (*see* Sex Offender Registration Act: Risk Assessment Guidelines and Commentary at 12 [2006] [hereinafter Guidelines]; *compare* *People v Sooknanan*, 119 AD3d 540, and *People v Milton*, 55 AD3d 1073, with *People v Shephard*, 101 AD3d 978, and *People v McGraw*, 24 AD3d 525).

We also agree with the County Court's assessment of 10 points under risk factor 13, based on evidence of a recent Tier III disciplinary violation during the defendant's incarceration (*see* Guidelines at 16; *People v Williams*, 100 AD3d 610, 611; *People v Mabee*, 69 AD3d 820; *People v Ealy*, 55 AD3d 1313).

June 6, 2018

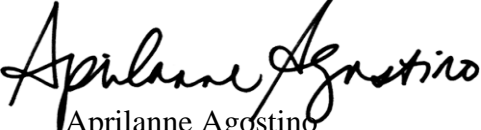
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The defendant's contention that a downward departure from his presumptive risk level designation should have been granted was never raised before the County Court and, thus, is unpreserved for appellate review (*see People v Gillotti*, 23 NY3d 841, 861 n 5; *People v Moran*, 148 AD3d 1189; *People v Williams*, 122 AD3d 1378). In any event, the contention is without merit.

CHAMBERS, J.P., COHEN, MALTESE and BARROS, JJ., concur.

ENTER:

  
Aprilanne Agostino  
Clerk of the Court