

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

1424

KA 11-00988

PRESENT: CENTRA, J.P., PERADOTTO, LINDLEY, WHALEN, AND MARTOCHE, JJ.

THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

KENNETH SNOW, DEFENDANT-APPELLANT.

TIMOTHY P. DONAHER, PUBLIC DEFENDER, ROCHESTER (JAMES ECKERT OF COUNSEL), FOR DEFENDANT-APPELLANT.

SANDRA DOORLEY, DISTRICT ATTORNEY, ROCHESTER (NANCY GILLIGAN OF COUNSEL), FOR RESPONDENT.

Appeal from an order of the Supreme Court, Monroe County (Frank P. Geraci, Jr., A.J.), entered March 17, 2011. 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.*). On appeal, defendant's sole contention is that Supreme Court erred in denying his request for a downward modification of his presumptive risk level. We reject that contention inasmuch as defendant failed to present clear and convincing evidence of special circumstances warranting a downward departure (*see People v Jefferson*, 74 AD3d 1756, 1756, *lv denied* 15 NY3d 709; *People v Wragg*, 41 AD3d 1273, 1274, *lv denied* 9 NY3d 809).

Entered: February 1, 2013

Frances E. Cafarell
Clerk of the Court