

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

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KA 23-00977

PRESENT: SMITH, J.P., BANNISTER, MONTOUR, GREENWOOD, AND KEANE, JJ.

THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

TENELL I. COLLINS, DEFENDANT-APPELLANT.

JOHN R. LEWIS, SLEEPY HOLLOW, FOR DEFENDANT-APPELLANT.

WILLIAM J. FITZPATRICK, DISTRICT ATTORNEY, SYRACUSE (ELISABETH DANNAN OF COUNSEL), FOR RESPONDENT.

Appeal from a judgment of the Onondaga County Court (Theodore H. Limpert, J.), rendered May 18, 2023. The judgment convicted defendant upon a jury verdict of use of a child in a sexual performance, possessing a sexual performance by a child (seven counts), and endangering the welfare of a child.

It is hereby ORDERED that the judgment so appealed from is unanimously affirmed.

Memorandum: Defendant appeals from a judgment convicting him upon a jury verdict of one count of use of a child in a sexual performance as a sexually motivated felony (Penal Law §§ 130.91, 263.05), seven counts of possessing a sexual performance by a child (§ 263.16), and one count of endangering the welfare of a child (§ 260.10 [1]). The conviction stems from the discovery of pornographic pictures of a 13-year-old child on defendant's cell phone.

Defendant contends that County Court violated his right to present a defense by improperly limiting his cross-examination of the child. To the extent that defendant's contention is preserved for our review (*see generally People v Lane*, 7 NY3d 888, 889 [2006]; *People v Jones*, 193 AD3d 1410, 1412 [4th Dept 2021], *lv denied* 37 NY3d 972 [2021]), we conclude that it lacks merit (*see generally People v Patterson*, 188 AD3d 1673, 1673-1674 [4th Dept 2020], *lv denied* 36 NY3d 1053 [2021]; *People v Adeyemi*, 32 AD3d 755, 756 [1st Dept 2006], *lv denied* 7 NY3d 865 [2006]; *People v Wegman*, 2 AD3d 1333, 1335 [4th Dept 2003], *lv denied* 2 NY3d 747 [2004]).

Contrary to defendant's further contention, the evidence, viewed in the light most favorable to the People (*see People v Contes*, 60 NY2d 620, 621 [1983]), is legally sufficient to support the conviction with respect to the counts of possessing a sexual performance by a

child (*see generally People v Bleakley*, 69 NY2d 490, 495 [1987]).

We have reviewed defendant's remaining contentions and conclude that none warrants modification or reversal of the judgment.

Entered: March 14, 2025

Ann Dillon Flynn
Clerk of the Court