

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

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KA 22-01189

PRESENT: CURRAN, J.P., BANNISTER, SMITH, DELCONTE, AND KEANE, JJ.

THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

FRANK CAMPBELL, DEFENDANT-APPELLANT.

JULIE CIANCA, PUBLIC DEFENDER, ROCHESTER (PAUL SKIP LAISURE OF COUNSEL), FOR DEFENDANT-APPELLANT.

SANDRA DOORLEY, DISTRICT ATTORNEY, ROCHESTER (AERON SCHWALLIE OF COUNSEL), FOR RESPONDENT.

Appeal from a judgment of the Supreme Court, Monroe County (Alex R. Renzi, J.), rendered July 6, 2022. The judgment convicted defendant upon a jury verdict of sexual abuse in the second degree, criminal sexual act in the second degree (two counts), sexual abuse in the third degree (two counts), criminal sexual act in the third degree (three 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 sexual abuse in the second degree (Penal Law § 130.60 [2]), two counts of criminal sexual act in the second degree (former § 130.45 [1]), two counts of sexual abuse in the third degree (§ 130.55), three counts of criminal sexual act in the third degree (former § 130.40 [2]), and one count of endangering the welfare of a child (§ 260.10 [1]). We affirm.

Defendant contends that Supreme Court erred in denying his motion to strike the People's initial certificate of compliance (COC) and dismiss the indictment on statutory speedy trial grounds (see CPL 30.30), arguing that the People's failure to disclose certain material and information necessarily rendered that COC invalid (see CPL 30.30 [former (5)]; 245.50 [former (1)]), thereby also rendering their statement of readiness "illusory and insufficient to stop the running of the speedy trial clock" (*People v Geer*, 224 AD3d 1353, 1354 [4th Dept 2024], *lv denied* 42 NY3d 970 [2024] [internal quotation marks omitted]). Defendant did not allege in his motion papers that the People actually possessed the material and information at issue, or that they failed to exercise due diligence to obtain such material and information, before filing the initial COC, and thus defendant's present contention, to the extent it is premised on such allegations

on appeal, is unpreserved (see generally *People v Guerrero*, 235 AD3d 1276, 1278 [4th Dept 2025]). Additionally, contrary to defendant's contention, the mere allegation that the People had not yet disclosed all initial discovery contemplated by CPL 245.20 (former [1]) before filing an initial COC and declaring readiness for trial does not alone, even if true, affect the validity of either the initial COC or the statement of readiness (see *People v Radford*, 237 AD3d 1511, 1512-1513 [4th Dept 2025], lv denied 43 NY3d 1048 [2025]; see also CPL 245.50 [former (1)]).

Contrary to defendant's further contention, we conclude that the court did not abuse its discretion in fashioning a *Sandoval* compromise by permitting the prosecutor to inquire into defendant's past convictions and sentences without discussing the underlying facts of each felony offense (see *People v Farley*, 199 AD3d 1463, 1463-1464 [4th Dept 2021], lv denied 37 NY3d 1145 [2021]; see generally *People v Walker*, 83 NY2d 455, 459 [1994]).