

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

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**KA 25-00946**

PRESENT: LINDLEY, J.P., CURRAN, OGDEN, DELCONTE, AND HANNAH, JJ.

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THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

ANTHONY COLBERT, DEFENDANT-APPELLANT.

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JULIE CIANCA, PUBLIC DEFENDER, ROCHESTER (CLEA WEISS OF COUNSEL), FOR DEFENDANT-APPELLANT.

PERRY DUCKLES, ACTING DISTRICT ATTORNEY, ROCHESTER (MERIDETH H. SMITH OF COUNSEL), FOR RESPONDENT.

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Appeal from an order of the Monroe County Court (Douglas A. Randall, J.), entered April 2, 2025. 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, *inter alia*, that he is a level three risk pursuant to the Sex Offender Registration Act (Correction Law § 168 *et seq.*). We reject defendant's contention that County Court abused its discretion when it denied his request for a downward departure from his presumptive risk level. We conclude, after "weighing the aggravating and mitigating factors" at the third step of the downward departure analysis, that the totality of the circumstances does not warrant a downward departure (*People v Gillotti*, 23 NY3d 841, 861 [2014]; *see People v Allis*, 229 AD3d 1375, 1376 [4th Dept 2024]).

Entered: April 24, 2026

Ann Dillon Flynn  
Clerk of the Court