

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

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CA 11-02586

PRESENT: SCUDDER, P.J., SMITH, CENTRA, CARNI, AND SCONIERS, JJ.

IN THE MATTER OF THE STATE OF NEW YORK,
PETITIONER-RESPONDENT,

V

MEMORANDUM AND ORDER

DONALD BRUSSO, RESPONDENT-APPELLANT.

EMMETT J. CREAHAN, DIRECTOR, MENTAL HYGIENE LEGAL SERVICE, ROCHESTER
(LISA L. PAINE OF COUNSEL), FOR RESPONDENT-APPELLANT.

ERIC T. SCHNEIDERMAN, ATTORNEY GENERAL, ALBANY (ALLYSON B. LEVINE OF
COUNSEL), FOR PETITIONER-RESPONDENT.

Appeal from an order of the Supreme Court, Monroe County (Thomas M. Van Strydonck, J.), entered November 2, 2011 in a proceeding pursuant to Mental Hygiene Law article 10. The order, among other things, committed respondent to a secure treatment facility.

It is hereby ORDERED that the order so appealed from is unanimously affirmed without costs.

Memorandum: Respondent appeals from an order determining that he is a dangerous sex offender requiring confinement pursuant to Mental Hygiene Law article 10 and committing him to a secure treatment facility. Contrary to respondent's contention, we conclude that petitioner established by clear and convincing evidence at the dispositional hearing that he is a dangerous sex offender requiring confinement (see §§ 10.03 [e]; 10.07 [f]). Supreme Court, as the trier of fact, was in the best position to evaluate the credibility of the testimony presented and the weight to be accorded such testimony, and we discern no basis to disturb the court's determination (see generally *Matter of State of New York v Blair*, 87 AD3d 1327, 1327; *Matter of State of New York v Boutelle*, 85 AD3d 1607, 1607). We further reject respondent's contention that he was denied due process because the court did not set forth detailed findings of fact in support of its decision. There is no such requirement in Mental Hygiene Law article 10 and, in any event, we conclude that the court's bench decision adequately sets forth the basis for the court's decision.

Entered: April 26, 2013

Frances E. Cafarell
Clerk of the Court