

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

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KA 16-01690

PRESENT: SMITH, J.P., CENTRA, CARNI, DEJOSEPH, AND WINSLOW, JJ.

THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

NATHANIEL WRIGHT, DEFENDANT-APPELLANT.

TIMOTHY P. DONAHER, PUBLIC DEFENDER, ROCHESTER (KIMBERLY F. DUGUAY 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 (Francis A. Affronti, J.), entered June 17, 2016. 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.*). Defendant failed to request a downward departure, and he thus failed to preserve for our review his contention that Supreme Court erred in failing to afford him that downward departure from his presumptive level three risk (*see People v Williams*, 122 AD3d 1378, 1379 [4th Dept 2014]). In any event, we conclude that the facts herein do not warrant a downward departure (*see People v McCall*, 148 AD3d 1769, 1769 [4th Dept 2017], *lv denied* 29 NY3d 914 [2017]).

Entered: February 2, 2018

Mark W. Bennett
Clerk of the Court