

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

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KA 20-01661

PRESENT: CENTRA, J.P., NEMOYER, CURRAN, AND BANNISTER, JJ.

THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

JESSE J. BUCHANAN, DEFENDANT-APPELLANT.

THE LEGAL AID BUREAU OF BUFFALO, INC., BUFFALO (ALAN WILLIAMS OF COUNSEL), FOR DEFENDANT-APPELLANT.

JOHN J. FLYNN, DISTRICT ATTORNEY, BUFFALO (MATTHEW B. POWERS OF COUNSEL), FOR RESPONDENT.

Appeal from an order of the Erie County Court (Kenneth F. Case, J.), dated September 9, 2020. 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: On appeal from an order classifying him as a level three sex offender under the Sex Offender Registration Act ([SORA] Correction Law § 168 *et seq.*), defendant challenges County Court's assessment of points under risk factor 10. Defendant's contention is unpreserved (*see People v Gallagher*, 129 AD3d 1252, 1254 [3d Dept 2015], *lv denied* 26 NY3d 908 [2015]) and, in any event, is without merit (*see People v Fabian-Lopez*, 160 AD3d 536, 537 [1st Dept 2018], *lv denied* 32 NY3d 901 [2018]; *People v Lott*, 160 AD3d 1458, 1459 [4th Dept 2018], *lv denied* 31 NY3d 913 [2018]). We add only that, contrary to defendant's characterization, his challenge to the court's point assessment in this SORA proceeding is "not properly analyzed within the framework that governs our review of the weight of the evidence underlying a [trial] verdict" (*People v Magee*, 200 AD3d 1619, 1621 [4th Dept 2021]; *see generally People v Romero*, 7 NY3d 633, 636-646 [2006]; *Northern Westchester Professional Park Assoc. v Town of Bedford*, 60 NY2d 492, 499 [1983]).

Entered: March 11, 2022

Ann Dillon Flynn
Clerk of the Court