

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

445

KA 08-00337

PRESENT: SCUDDER, P.J., SMITH, CENTRA, FAHEY, AND PINE, JJ.

THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

MICHAEL PAUL BELANGER, DEFENDANT-APPELLANT.

JOHN E. TYO, SHORTSVILLE, FOR DEFENDANT-APPELLANT.

R. MICHAEL TANTILLO, DISTRICT ATTORNEY, CANANDAIGUA (JAMES B. RITTS OF COUNSEL), FOR RESPONDENT.

Appeal from an order of the Ontario County Court (William F. Kocher, J.), entered January 14, 2008. 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.). We reject the contention of defendant that County Court erred in assessing points against him based on his unsatisfactory conduct while under probation supervision. Defendant pleaded guilty to violating the terms of his probation, and the court thus properly concluded that the assessment of 10 points was warranted (see Sex Offender Registration Act: Risk Assessment Guidelines and Commentary, at 16 [2006]). Contrary to the further contention of defendant, the court properly assessed 15 points against him based on his release without any parole or probation supervision (see Risk Assessment Guidelines and Commentary, at 17; *People v Brown-McKnight*, 45 AD3d 1334, *lv denied* 10 NY3d 701; *People v Donhauser* [appeal No. 1], 37 AD3d 1053, *lv denied* 8 NY3d 815).

Entered: March 20, 2009

JoAnn M. Wahl
Clerk of the Court