

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

**402**

**KA 07-00910**

PRESENT: SCUDDER, P.J., SCONIERS, GREEN, AND GORSKI, JJ.

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THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

ALEXANDER HERNANDEZ, DEFENDANT-APPELLANT.

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TIMOTHY P. DONAHER, PUBLIC DEFENDER, ROCHESTER (GRAZINA MYERS OF COUNSEL), FOR DEFENDANT-APPELLANT.

MICHAEL C. GREEN, DISTRICT ATTORNEY, ROCHESTER (NANCY A. GILLIGAN OF COUNSEL), FOR RESPONDENT.

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Appeal from a judgment of the Monroe County Court (John R. Schwartz, A.J.), rendered December 15, 2006. The judgment convicted defendant, upon a nonjury verdict, of sexual abuse in the first degree (three counts) and endangering the welfare of a child (three counts).

It is hereby ORDERED that the judgment so appealed from is unanimously affirmed.

Memorandum: Defendant appeals from a judgment convicting him following a nonjury trial of three counts each of sexual abuse in the first degree (Penal Law § 130.65 [1]) and endangering the welfare of a child (§ 260.10 [1]). We reject defendant's contention that County Court erred in admitting the testimony of an expert concerning Child Sexual Abuse Accommodation Syndrome (*see People v Gunther*, 67 AD3d 1477; *People v Krause*, 187 AD2d 1019, 1020, *lv denied* 81 NY2d 842). Viewing the evidence in light of the elements of the crimes in this nonjury trial (*see People v Danielson*, 9 NY3d 342, 349), we reject defendant's further contention that the verdict is against the weight of the evidence (*see generally People v Bleakley*, 69 NY2d 490, 495). The court's determination to credit the testimony of the victim is entitled to deference, and we see no reason to disturb that determination (*see People v Stone*, 49 AD3d 1314, *lv denied* 10 NY3d 965). Defendant failed to preserve for our review his contention that the court erred in setting the expiration date of the order of protection (*see People v Nieves*, 2 NY3d 310, 315-317). In any event, that contention is without merit inasmuch as the court properly specified an expiration date in accordance with CPL 530.13 (former [4]), the version of the statute in effect when the judgment was rendered (*see People v Lake*, 45 AD3d 1409, 1410-1411, *lv denied* 10 NY3d 767; *People v Moss* [appeal No. 1], 45 AD3d 1412, *lv denied* 10

NY3d 768).

Entered: March 19, 2010

Patricia L. Morgan  
Clerk of the Court