

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

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KA 08-01234

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

THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

DOLPHUS L. JACKSON, DEFENDANT-APPELLANT.

TIMOTHY P. DONAHER, PUBLIC DEFENDER, ROCHESTER (DAVID M. ABBATOY, JR., OF COUNSEL), FOR DEFENDANT-APPELLANT.

MICHAEL C. GREEN, DISTRICT ATTORNEY, ROCHESTER (STEPHEN X. O'BRIEN OF COUNSEL), FOR RESPONDENT.

Appeal from a judgment of the Supreme Court, Monroe County (Dennis M. Kehoe, A.J.), rendered September 5, 2007. The judgment convicted defendant, upon his plea of guilty, of sexual abuse in the first degree.

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

Memorandum: Defendant appeals from a judgment convicting him upon his plea of guilty of sexual abuse in the first degree (Penal Law § 130.65 [3]). In addition to sentencing defendant to time served, Supreme Court issued an order of protection for the victim. Defendant failed to preserve for our review his contentions that the court failed to take into account the jail time credit to which he is entitled in determining the duration of the order of protection and erred in setting an eight-year duration for the order of protection (see *People v Nieves*, 2 NY3d 310, 316-317), and we decline to exercise our power to review those contentions as a matter of discretion in the interest of justice (see *People v Letman*, 74 AD3d 1854, lv denied 15 NY3d 853).

Entered: February 10, 2011

Patricia L. Morgan
Clerk of the Court