

SUPREME COURT OF THE STATE OF NEW YORK, APPELLATE DIVISION,
THIRD DEPARTMENT

People v. Hotaling

2026 NY Slip Op 01569 (3d Dep't 2026) · No. CV-24-1344 · Decided March 19, 2026

SUMMARY

The Appellate Division, Third Department, affirmed an order classifying Jared P. Hotaling as a risk level three sex offender under the Sex Offender Registration Act. The court upheld the assessment of 130 risk-assessment points based on the guilty plea, reliable hearsay, and the victims’ accounts, and rejected the defendant’s request for a downward departure. The court also held that the lower court’s use of the wrong evidentiary standard for the departure request did not require remittal.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, Third Department
WRITING FOR THE COURT	Mackey, J.; Reynolds Fitzgerald, J.P.; Ceresia, J.; Fisher, J.; Powers, J.
JURISDICTION	New York Appellate Division, Third Department
DECIDED	March 19, 2026
DOCKET	CV-24-1344
DISPOSITION	affirmed
PROCEDURAL POSTURE	Defendant appealed from an order of Broome County Court classifying him as a risk level three sex offender and designating him a sexually violent offender under the Sex Offender Registration Act.
STANDARD OF REVIEW	The People must prove facts supporting the requested SORA risk classification by clear and convincing evidence. A defendant seeking a downward departure must establish by a preponderance of the evidence mitigating factors not adequately taken into account by the risk assessment guidelines. The Appellate Division reviewed the denial of the downward departure for abuse of discretion.
PRECEDENTIAL VALUE	published
PARTIES	Jared P. Hotaling v. The People of the State of New York

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QUESTIONS PRESENTED

1. Whether the assessment of 10 points under SORA risk factor 1 for use of forcible compulsion was supported.
2. Whether the assessment of 105 points under SORA risk factors 2 through 5 was supported by clear and convincing evidence.
3. Whether County Court properly denied defendant's request for a downward departure from the presumptive risk level three classification.
4. Whether the court could consider reliable hearsay, including the case summary and victims' statements to police, in determining the SORA risk classification.

HOLDINGS

1. In determining a SORA risk level, the court is not limited to the crime to which the defendant pleaded guilty and may consider reliable hearsay information, including a case summary and victims' statements to police.
2. The assessment of 10 points under risk factor 1 for use of forcible compulsion was proper because forcible compulsion was a necessary element of the offense to which defendant pleaded guilty, and facts established during the plea could not be relitigated for SORA purposes.
3. The assessment of 105 points under risk factors 2 through 5 was supported by clear and convincing evidence.
4. Defendant was not entitled to a downward departure from the presumptive risk level three classification because he failed to establish qualifying mitigating factors not adequately considered by the risk assessment guidelines, and the denial of the departure was not an abuse of discretion.

KEY QUOTATIONS

“In establishing the appropriate risk level classification under SORA, the People bear the burden of proving the facts supporting the determination sought by clear and convincing evidence” (at 1)

“Inasmuch as 'facts previously elicited at the time of entry of a plea of guilty shall be deemed established by clear and convincing evidence and shall not be relitigated' for purposes of a sex offender registration determination” (at 2)

“As the party seeking the downward departure from a presumptive risk classification, defendant was required to demonstrate, by a preponderance of the evidence, the existence of mitigating factors underlying his request that are not adequately taken into consideration by the risk assessment guidelines” (at 2)

“a score on the Static-99R or COMPAS instrument reflecting a low risk to reoffend may not, standing alone, be considered a mitigating factor” (at 3)

FACTUAL BACKGROUND

Defendant was charged with multiple sex crimes involving three underage victims and pleaded guilty to attempted criminal sexual act in the first degree. The Board assessed 130 SORA points based on forcible compulsion, sexual contact, the number of victims, the duration of the conduct, the victims' ages, and prior crimes. The underlying conduct involved sexual contact, including intercourse with one victim, over approximately two years while the victims were between ages 10 and 14.

PROCEDURAL HISTORY

Defendant pleaded guilty in 2016 to attempted criminal sexual act in the first degree and received an eight-year prison sentence followed by fifteen years of postrelease supervision. Before his release, the Board of Examiners of Sex Offenders assessed 130 points, presumptively placing him at risk level three. County Court rejected the People's request for additional points under risk factor 12, but upheld the Board's 130-point assessment, denied defendant's request for a downward departure to risk level one, and entered the challenged order. The Appellate Division affirmed.

DISPOSITION

affirmed

CASES CITED

- People v. Harvey, 202 AD3d 1296, 1296-1297 (3d Dep't 2022)
- People v. Dority, 234 AD3d 1211, 1212 (3d Dep't 2025)
- People v. Roubik, 231 AD3d 1210, 1210-1211 (3d Dep't 2024)
- People v. Mingo, 12 NY3d 563, 571-577 (2009)
- People v. Eaglin, 227 AD3d 1283, 1284 (3d Dep't 2024)
- People v. Fredenburg, 226 AD3d 1268, 1269 (3d Dep't 2024)
- People v. Dabney, 221 AD3d 624, 625 (2d Dep't 2023), lv denied 41 NY3d 904 (2024)
- People v. Snay, 122 AD3d 1012, 1013 (3d Dep't 2014), lv denied 24 NY3d 916 (2015)
- People v. Mathews, 181 AD3d 1103, 1105 (3d Dep't 2020)
- People v. Dorvee, 203 AD3d 1413, 1415 (3d Dep't 2022)
- People v. Uhle, 221 AD3d 1199, 1202 (3d Dep't 2023)
- People v. Gillotti, 23 NY3d 841, 861 (2014)
- People v. Glowinski, 208 AD3d 1392, 1394 (3d Dep't 2022)
- People v. Sanders, 228 AD3d 1184, 1186 (3d Dep't 2024)
- People v. Laboriel, 210 AD3d 916, 917 (2d Dep't 2022), lv denied 39 NY3d 909 (2023)
- People v. Porter, 201 AD3d 1152, 1154 (3d Dep't 2022), lv denied 38 NY3d 908 (2022)

- People v. Waterbury, 231 AD3d 201, 208-209 (3d Dep't 2024)

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