

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

People of the State of New York v. Anthony Watkins

2026 NY Slip Op 01568 (Supreme Court of the State of New York Appellate Division Third Department 2026) ·
No. CV-24-1230 · Decided March 19, 2026

SUMMARY

The Appellate Division, Third Department, affirmed an order classifying Anthony Watkins as a risk level three sex offender under the Sex Offender Registration Act. The court held that reliable evidence supported assessment of 20 points for the relationship-with-victim risk factor and found the challenge to 10 points for failure to accept responsibility academic because the score would remain within the risk level three range without those points.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, Third Department
WRITING FOR THE COURT	Aarons, J.; Garry, P.J.; Ceresia, J.; Fisher, J.; Mackey, J.
JURISDICTION	New York Appellate Division, Third Department
DECIDED	March 19, 2026
DOCKET	CV-24-1230
DISPOSITION	affirmed
PROCEDURAL POSTURE	Defendant appealed from an order of Albany County Court classifying him as a risk level three sex offender under the Sex Offender Registration Act.
STANDARD OF REVIEW	The People must establish the appropriate SORA risk-level classification by clear and convincing evidence. The court reviews whether the record contains sufficient reliable evidence to support the assessed points.
PRECEDENTIAL VALUE	Published
PARTIES	Anthony Watkins v. The People of the State of New York

TOPICS

- appellate procedure
- criminal procedure
- preservation of error
- standard of review

PRACTICE AREAS

criminal procedure

sex offender registration

appellate procedure

QUESTIONS PRESENTED

1. Whether reliable evidence clearly and convincingly supported the assessment of 20 points under SORA risk factor 7 for a relationship with the victim involving a stranger or a relationship established for the purpose of victimization.
2. Whether the challenge to the additional 10 points assessed under SORA risk factor 12 was academic because removing those points would not alter the presumptive risk level three classification.
3. Whether challenges to the 95 points assessed under risk factors 2, 4, 5, 9, and 11 were preserved for appellate review.

HOLDINGS

1. The assessment of 20 points under risk factor 7 was supported by sufficient reliable evidence established by clear and convincing evidence because defendant's months-long communications with the victim demonstrated that the relationship was established or promoted for the primary purpose of victimization.
2. The challenge to the 10 points assessed under risk factor 12 was academic because subtracting those points would leave defendant with 115 points, still within the presumptive range for a risk level three designation.
3. Because defendant did not object at the SORA hearing to the 95 points assessed under risk factors 2, 4, 5, 9, and 11, any challenge to those points was not properly before the court.

KEY QUOTATIONS

“The People bear the burden of establishing the appropriate risk level classification by clear and convincing evidence and, in so doing, may submit reliable hearsay evidence including — as relevant here — the RAI, the federal presentence investigation report . . . and the Board's case summary” (at 1)

“the record contains sufficient reliable evidence to support the assessment of 20 points under risk factor 7” (at 1)

FACTUAL BACKGROUND

Defendant pleaded guilty in 2009 to transporting a minor with intent to engage in criminal sexual activity and was sentenced to 233 months in federal prison followed by lifetime supervised release. The Board of Examiners of Sex Offenders assessed 115 points under the SORA risk assessment instrument, while the People assessed 125 points after adding 10 points for failure to accept responsibility. Evidence showed that defendant had months-long communications with the victim before the crime.

PROCEDURAL HISTORY

After pleading guilty in federal court in 2009 to transporting a minor with intent to engage in criminal sexual activity, defendant was sentenced to 233 months' imprisonment followed by lifetime supervised release. In

anticipation of his release, the Board of Examiners of Sex Offenders assessed 115 points and presumptively classified him as risk level three; the People assessed 125 points by adding 10 points for failure to accept responsibility. Following a SORA hearing, at which no departures were sought and defendant did not appear, Albany County Court classified him as a risk level three sex offender. The Appellate Division affirmed.

DISPOSITION

affirmed

CASES CITED

- People v. Stammel, 227 AD3d 1322, 1323 [3d Dept 2024]
- People v. Jony, 219 AD3d 1438, 1438-1439 [3d Dept 2023]
- People v. LaShomb, 161 AD3d 1465, 1466 [3d Dept 2018]
- People v. Parisi, 147 AD3d 1162, 1163-1164 [3d Dept 2017]
- People v. Gillotti, 23 NY3d 841, 852-853 [2014]
- People v. Hernandez, 236 AD3d 835, 836 [2d Dept 2025], lv denied 44 NY3d 906 [2025]
- People v. Scott, 230 AD3d 1487, 1487 [3d Dept 2024]
- People v. Ellis, 204 AD3d 1388, 1390 [4th Dept 2022]
- People v. George, 142 AD3d 1059, 1060-1061 [2d Dept 2016]
- People v. DeDona, 102 AD3d 58, 63 [2d Dept 2012]

OPINION

PER CURIAM.

People v Watkins (2026 NY Slip Op 01568) People v Watkins 2026 NY Slip Op 01568 Decided on March 19, 2026 Appellate Division, Third Department Published by New York State Law Reporting Bureau pursuant to Judiciary Law § 431. This opinion is uncorrected and subject to revision before publication in the Official Reports. Decided and Entered:March 19, 2026 CV-24-1230 [*1]The People of the State of New York, Respondent, v Anthony Watkins, Appellant.

Calendar Date:February 11, 2026 Before:Garry, P.J., Aarons, Ceresia, Fisher and Mackey, JJ. Yorden C. Huban, Public Defender, Albany (James A. Bartosik Jr. of counsel), for appellant. Lee C. Kindlon, District Attorney, Albany (Caroline B. McCaffrey of counsel), for respondent. Aarons, J. Appeal from an order of the County Court of Albany County (Andra Ackerman, J.), entered February 16, 2024, which classified defendant as a risk level three sex offender pursuant to the Sex Offender Registration Act.

In 2009, defendant pleaded guilty to one count of transportation of a minor with intent to engage in criminal sexual activity (see 18 USC § 2423 [a]). Defendant was thereafter sentenced to 233

months of incarceration in the Federal Bureau of Prisons, to be followed by supervised release for life.

In anticipation of his release from incarceration, the Board of Examiners of Sex Offenders notified defendant that he was required to register as a sex offender under the Sex Offender Registration Act (see Correction Law art 6-C [hereinafter SORA]), and the Board prepared a risk assessment instrument (hereinafter RAI), assessing him 115 points and presumptively classifying him a risk level three sex offender.

The People agreed with the Board's assessment but scored an additional 10 points under risk factor 12 (not accepting responsibility) and prepared an RAI assessing 125 points against defendant, presumptively classifying him as a risk level three sex offender. Following a hearing at which no departures were sought, [FN1] County Court assessed defendant 125 points — a risk level three classification.

Defendant appeals. We affirm. [FN2] "The People bear the burden of establishing the appropriate risk level classification by clear and convincing evidence and, in so doing, may submit reliable hearsay evidence including — as relevant here — the RAI, the federal presentence investigation report... and the Board's case summary" (*People v Stammel*, 227 AD3d 1322, 1323 [3d Dept 2024] [internal quotation marks and citations omitted]; see *People v Jony*, 219 AD3d 1438, 1438 [3d Dept 2023]).

Contrary to defendant's contention, we find that the record contains sufficient reliable evidence to support the assessment of 20 points under risk factor 7 (relationship with victim — stranger or established for the purpose of victimizing).

In particular, evidence of defendant's months-long communications with the victim prior to his crime demonstrated, clearly and convincingly, that the crime "was directed at a stranger or a person with whom a relationship had been established or promoted for the primary purpose of victimization" (Sex Offender Registration Act: Risk Assessment Guidelines and Commentary at 12 [2006]; see *People v Jony*, 219 AD3d at 1438-1439; *People v LaShomb*, 161 AD3d 1465, 1466 [3d Dept 2018]; *People v Parisi*, 147 AD3d 1162, 1163-1164 [3d Dept 2017]; cf. *People v Gillotti*, 23 NY3d 841, 852-853 [2014]).

Defendant's contention that County Court erred in assessing additional points under risk factor 12 "is academic since, even if [10] points were subtracted from his risk level score, his point total would remain within the range of a presumptive risk level [three] designation" (115 points) (*People v Hernandez*, 236 AD3d 835, 836 [2d Dept 2025], lv denied 44 [*2]NY3d 906 [2025]; see *People v Scott*, 230 AD3d 1487, 1487 [3d Dept 2024]; *People v Ellis*, 204 AD3d 1388, 1390 [4th Dept 2022]; *People v George*, 142 AD3d 1059, 1060-1061 [2d Dept 2016]).

To the extent that we have not addressed any of defendant's remaining claims, they are academic in light of our decision or have been considered and found to be without merit. Garry, P.J., Ceresia, Fisher and Mackey, JJ., concur. ORDERED that the order is affirmed, without costs. Footnotes
Footnote 1: Defendant did not attend the hearing. Footnote 2: Inasmuch as defendant raised no objection at the SORA hearing to the 95 points scored for risk factors 2, 4, 5, 9 and 11, any challenge to the assessment of these 95 points under these risk factors is not properly before us (see *People v Scott*, 230 AD3d 1487, 1487 [3d Dept 2024]; *People v DeDona*, 102 AD3d 58, 63 [2d Dept 2012]).