

State of New York
Supreme Court, Appellate Division
Third Judicial Department

Decided and Entered: April 15, 2010

505753B

THE PEOPLE OF THE STATE OF
NEW YORK,

Respondent,

v

MEMORANDUM AND ORDER

WILLIAM R. LEWIS,

Appellant.

Calendar Date: March 24, 2010

Before: Mercure, J.P., Rose, Lahtinen, Kavanagh and
Egan Jr., JJ.

Matthew C. Hug, Troy, for appellant.

Mark D. Suben, District Attorney, Cortland (Christopher I.
Simsr Sr. of counsel), for respondent.

Kavanagh, J.

Appeal from an order of the County Court of Cortland County
(Campbell, J.), entered September 26, 2008, which classified
defendant as a risk level III sex offender pursuant to the Sex
Offender Registration Act.

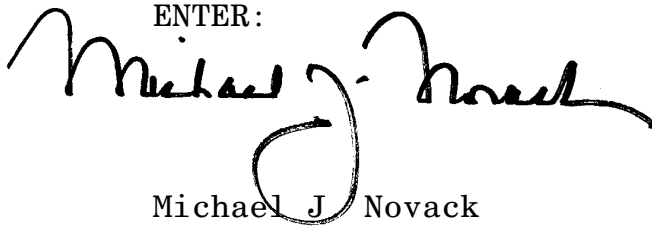
In 2003, defendant pleaded guilty to six counts of sexual
abuse in the first degree and one count of endangering the
welfare of a child and was sentenced to seven years in prison and
five years of postrelease supervision. Prior to his release from
prison, a hearing was held pursuant to the Sex Offender
Registration Act (see Correction Law art 6-C). County Court
determined defendant to be a risk level III sex offender,
adhering to the recommendation in the risk assessment instrument

submitted by the Board of Examiners of Sex Offenders, and designated him to be a sexually violent offender. Defendant now appeals, contending, among other things, that the Board failed to issue its recommendation within 60 days of his conditional release date (see Correction Law § 168-1 [6]).¹ Defendant seeks a new determination hearing, which the People do not oppose. As we agree that a new determination hearing is required, County Court's order must be reversed.

Mercure, J.P., Rose, Lahtinen and Egan Jr., JJ., concur.

ORDERED that the order is reversed, on the facts, and matter remitted to the County Court of Cortland County for further proceedings not inconsistent with this Court's decision.

ENTER:

A handwritten signature in black ink, appearing to read "Michael J. Novack". The signature is fluid and cursive, with a large loop at the end.

Michael J. Novack
Clerk of the Court

¹ This Court previously withheld our decision of this appeal after rejecting an Anders brief, assigning new counsel and identifying at least one issue of arguable merit related to the timeliness of the submission of the Board's recommendation (65 AD3d 1426 [2009]).