Decided and Entered: May 9, 2019   109089
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THE PEOPLE OF THE STATE OF
    NEW YORK,
                    Respondent,

            v   MEMORANDUM AND ORDER

MICHAEL VEDDER,
                    Appellant.
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Calendar Date: March 26, 2019

Before: Garry, P.J., Lynch, Clark, Mulvey and Rumsey, JJ.

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        G. Scott Walling, Slingerlands, for appellant.

        Robert M. Carney, District Attorney, Schenectady (Peter H.
Willis of counsel), for respondent.

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Rumsey, J.

        Appeal from a judgment of the County Court of Schenectady
County (Sypniewski, J.), rendered August 31, 2016, which revoked
defendant's probation and imposed a sentence of imprisonment.

        In 2011, defendant pleaded guilty to the crime of rape in
the second degree, admitting that he had engaged in intercourse
with a female child who was less than 15 years old, and was
sentenced to six months in jail and 10 years of probation. In
February 2016, defendant was arrested and charged with criminal
sexual act in the second degree, sexual abuse in the second
degree and endangering the welfare of a child, based on
allegations that he had engaged in sexual conduct with a 13 year

old (hereinafter the victim), and was thereafter charged with
violating certain conditions of his probation. At an
evidentiary hearing, Eric Lindh, a Schenectady County Probation
Department supervisor, testified that he spoke with defendant
about potential probation violations after conducting an
interview of the victim, who disclosed information that led
Lindh to believe that defendant was involved in a relationship
with the victim. County Court denied defendant's request that
the People be required to produce the notes that Lindh made
following his interview of the victim. County Court found that
defendant had violated the conditions of his probation, revoked
his probation and resentenced him to seven years in prison,
followed by 10 years of postrelease supervision. Defendant
appeals.

        We affirm. Defendant's sole contention on appeal is that
County Court erred by failing to order the People to produce
Lindh's interview notes as Rosario material. "A probation
violation hearing is a summary proceeding which does not trigger
the strict evidentiary rules or all the procedural safeguards
available to a defendant in a criminal action. As we have
previously held, a defendant's statutory and due process rights
are met so long as he [or she] is given formal notice of the
charges and an opportunity to be heard and to confront the
witnesses against him [or her] through cross-examination"
(People v Morton, 142 AD2d 763, 764 [1988] [internal quotation
marks, brackets and citations omitted]). Although the discovery
provisions of CPL article 240 are generally inapplicable to
probation violation hearings (see People v Mitchell, 201 AD2d
507, 508 [1994]; People v Morton, 142 AD2d at 764), prior
statements of the hearing witnesses regarding the subject of
their testimony should be provided to a defendant to the extent
that they are necessary to afford him or her the opportunity to
conduct meaningful cross-examination (see People v Mitchell, 201
AD2d at 508).

        Lindh's testimony regarding his interview of the victim
was limited to the fact that the information she disclosed
caused him to commence his investigation of potential probation
violations that may have been committed by defendant; Lindh did

not testify directly to the substance of the information that the victim disclosed during the interview. Notably, Lindh testified at length regarding his interview of defendant, who admitted to engaging in conduct that established that he had violated the conditions of his probation. Under these circumstances, especially the limited scope of Lindh's testimony about his interview of the victim, his notes regarding that interview were not necessary to afford defendant the opportunity to conduct meaningful cross-examination of Lindh.

Garry, P.J., Lynch, Clark and Mulvey, JJ., concur.

ORDERED that the judgment is affirmed.

ENTER:

Robert D. Mayberger
Clerk of the Court