

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

Decided and Entered: June 24, 2021

528977

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THE PEOPLE OF THE STATE OF  
NEW YORK,

Respondent,

v

MEMORANDUM AND ORDER

THOMAS ASHDOWN,

Appellant.

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Calendar Date: May 27, 2021

Before: Garry, P.J., Lynch, Clark, Aarons and Colangelo, JJ.

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Linda B. Johnson, East Greenbush, for appellant.

Mary Pat Donnelly, District Attorney, Troy (George J. Hoffman Jr. of counsel), for respondent.

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Clark, J.

Appeal from a decision of the County Court of Rensselaer County (Sober, J.), dated October 3, 2018, which denied defendant's application pursuant to Correction Law § 168-o (2) for reclassification of his sex offender risk level status.

In 1993, defendant pleaded guilty to the reduced charge of attempted sodomy in the first degree and was sentenced to 1 to 3 years in prison.<sup>1</sup> Following his release from prison, defendant

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<sup>1</sup> Defendant's petition for modification and the People's opposition to the petition incorrectly indicate that defendant

was classified as a risk level three sex offender. In 2016, defendant successfully moved to modify his risk level classification from a risk level three to a risk level two, pursuant to Correction Law § 168-o (2). In 2018, defendant petitioned for a further modification of his risk level classification to a risk level one, which was opposed by the People. Following a hearing, County Court denied defendant's request. Defendant appeals.

Correction Law § 168-o (4) requires that, in determining a modification petition, County Court "render an order setting forth its determination, and the findings of fact and conclusions of law on which the determination is based" (see Correction Law § 168-n [3]). Such order must "be in writing" (CPLR 2219 [a]) and "entered and filed in the office of the clerk of the court where the action is triable" (CPLR 2220 [a]; see People v West, 193 AD3d 1127, 1127 [2021]). The record does not reflect that any order was ever issued or entered and filed. Absent an order by the court, this appeal is not properly before us and must be dismissed (see CPLR 5513, 5515 [1]; People v West, 193 AD3d at 1127; see also People v Johnson, 179 AD3d 1159, 1160 [2020]).

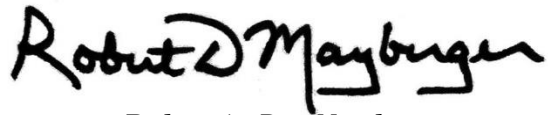
Garry, P.J., Lynch, Aarons and Colangelo, JJ., concur.

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pleaded guilty to sodomy in the first degree and that he was sentenced to three years in prison.

ORDERED that the appeal is dismissed, without costs.

ENTER:

A handwritten signature in black ink that reads "Robert D. Mayberger". The signature is written in a cursive style with a large, prominent "R" and "M".

Robert D. Mayberger  
Clerk of the Court