

Supreme Court of the State of New York
Appellate Division: Second Judicial Department

D12641
C/mv

_____AD3d_____

Submitted - October 5, 2006

ANITA R. FLORIO, J.P.
HOWARD MILLER
GLORIA GOLDSTEIN
ROBERT J. LUNN, JJ.

2006-01565
2006-01566

DECISION & ORDER

People of State of New York, respondent,
v James Jordan, appellant.

Stephen J. Pittari, White Plains, N.Y. (Jacqueline F. Oliva of counsel), for appellant.

Janet DiFiore, District Attorney, White Plains, N.Y. (Lois Cullen Valerio, Richard Longworth Hecht, and Anthony J. Servino of counsel), for respondent.

Appeals by the defendant from (1) an order of the County Court, Westchester County (Loehr, J.) entered December 5, 2005, and (2) an amended order of the same court entered December 12, 2005, which, after a hearing pursuant to Correction Law article § 6-C, designated him a level three sex offender.

ORDERED that the appeal from the order is dismissed, without costs or disbursements, as the order was superseded by the amended order; and it is further,

ORDERED that the amended order is affirmed, without costs or disbursements.

Contrary to the defendant's contention, the County Court, in determining his risk level (*see* Correction Law § 168-n), properly assessed points against him based on his prior youthful offender adjudication of sodomy in the first degree (*see People v Moore*, 1 AD3d 421). Moreover, the County Court providently exercised its discretion in declining to depart downward to risk level two (*see People v Guaman*, 8 AD3d 545). Accordingly, the defendant was properly designated a level three sex offender.

FLORIO, J.P., MILLER, GOLDSTEIN and LUNN, JJ., concur.

ENTER:


James Edward Pelzer
Clerk of the Court

November 21, 2006

PEOPLE OF STATE OF NEW YORK v JORDAN