

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

D13413  
T/hu

\_\_\_\_\_AD3d\_\_\_\_\_

Submitted - December 4, 2006

HOWARD MILLER, J.P.  
REINALDO E. RIVERA  
GABRIEL M. KRAUSMAN  
GLORIA GOLDSTEIN, JJ.

---

2005-01717

DECISION & ORDER

People of State of New York, respondent,  
v Anthony Juarbe, appellant.

---

Lynn W. L. Fahey, New York, N.Y. (Warren S. Landau of counsel), for appellant.

Daniel M. Donovan, Jr., District Attorney, Staten Island, N.Y. (Anne Crick of  
counsel; Rian Silverman on the brief), for respondent.

Appeal by the defendant from an order of the Supreme Court, Richmond County  
(Rienzi, J.), dated January 21, 2005, which, after a hearing to redetermine the defendant's sex  
offender risk level pursuant to the stipulation of settlement in *Doe v Pataki* (3 F Supp 2d 456),  
designated him a level three sex offender pursuant to Correction Law article 6-C.

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

The Supreme Court's determination to designate the defendant a level three sex  
offender based upon the existence of a "presumptive override" factor, namely, that the defendant had  
"a prior felony conviction for a sex crime" is supported by clear and convincing evidence and thus,  
should not be disturbed (*see People v Page*, 32 AD3d 1352; *People v Clinkscales*, 18 AD3d 726;  
*People v Boan*, 11 AD3d 956).

The defendant's remaining contentions are unpreserved for appellate review.

MILLER, J.P., RIVERA, KRAUSMAN and GOLDSTEIN, JJ., concur.

ENTER:



James Edward Pelzer  
Clerk of the Court

January 9, 2007

PEOPLE OF STATE OF NEW YORK v JUARBE