

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

D13697  
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Submitted - January 2, 2007

ROBERT W. SCHMIDT, J.P.  
FRED T. SANTUCCI  
PETER B. SKELOS  
JOSEPH COVELLO, JJ.

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2005-02132

DECISION & ORDER

People of State of New York, respondent, v Ricardo  
S. Fisher, appellant.

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Kent V. Moston, Hempstead, N.Y. (Jeremy L. Goldberg and Tammy Feman of counsel; Nathan Kennedy on the brief), for appellant.

Kathleen M. Rice, District Attorney, Mineola, N.Y. (Tammy J. Smiley and Margaret E. Mainusch of counsel), for respondent.

Appeal by the defendant from an order of the County Court, Nassau County (Gulotta, J.), dated November 15, 2004, which, after a hearing, designated him a level three sex offender pursuant to Correction Law article 6-C.

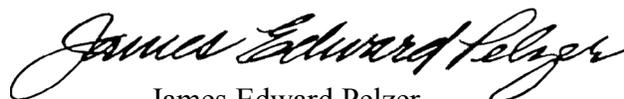
ORDERED that the order is affirmed, without costs or disbursements.

There was clear and convincing evidence to support the County Court's determination to designate the defendant a level three sex offender, and thus it will not be disturbed on appeal (*see People v Inghilleri*, 21 AD3d 404; *People v Guaman*, 8 AD3d 545; *People v Brown*, 7 AD3d 595). There is no merit to the defendant's contention that he was entitled to a downward departure from this risk level (*see People v Abdullah*, 31 AD3d 515; *People v Ventura*, 24 AD3d 527; *People v Dexter*, 21 AD3d 403).

The defendant's remaining contention is unpreserved for appellate review.

SCHMIDT, J.P., SANTUCCI, SKELOS and COVELLO, JJ., concur.

ENTER:



James Edward Pelzer  
Clerk of the Court

January 30, 2007

PEOPLE OF STATE OF NEW YORK v FISHER