

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

D15160  
O/cb

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Submitted - April 2, 2007

DAVID S. RITTER, J.P.  
FRED T. SANTUCCI  
RUTH C. BALKIN  
WILLIAM E. McCARTHY, JJ.

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2005-05007

DECISION & ORDER

People of State of New York, respondent,  
v Louis McLaughlin, appellant.

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Steven Banks, New York, N.Y. (Nancy E. Little of counsel), for appellant.

Charles J. Hynes, District Attorney, Brooklyn, N.Y. (Leonard Joblove and Anthea H. Bruffee of counsel), for respondent.

Appeal by the defendant from an order of the Supreme Court, Kings County (Demerest, J.), dated April 12, 2005, 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.

On April 18, 2002, the defendant pleaded guilty in the State of Pennsylvania to Indecent Assault (two counts) (Pa Stat Ann, tit 18 § 3126[a][7]) and Corruption of Minors (two counts) (Pa Stat Ann, tit 18 § 6301[a][1]) and thereafter was adjudicated a level two sex offender in that state. After relocating to Kings County, following his release from incarceration, a hearing was held pursuant to the Sex Offender Registration Act, Correction Law article 6-C, at which the defendant was designated a level three sex offender based upon an aggregate risk factor score of 120 points.

Utilization of the Risk Assessment Instrument generally will “result in the proper classification in most cases so that departures will be the exception – not the rule” (Sex Offender

May 15, 2007

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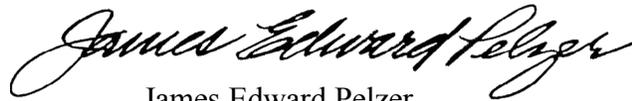
Registration Act: Risk Assessment Guidelines and Commentary at 4). Departure from the presumptive risk level is not appropriate unless “there exists an aggravating or mitigating factor of a kind, or to a degree, that is otherwise not adequately taken into account by the guidelines” (Sex Offender Registration Act: Risk Assessment Guidelines and Commentary at 4).

Here, the Supreme Court properly determined that there was clear and convincing evidence to support the presumptive level three sex offender designation (*see People v Hyson*, 27 AD3d 919).

The defendant’s remaining contentions are unpreserved for appellate review (*see People v Dexter*, 21 AD3d 403; *People v Angelo*, 3 AD3d 482).

RITTER, J.P., SANTUCCI, BALKIN and McCARTHY, JJ., concur.

ENTER:

A handwritten signature in black ink that reads "James Edward Pelzer". The signature is written in a cursive, flowing style.

James Edward Pelzer  
Clerk of the Court