

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

D15792
W/gts

_____AD3d_____

Submitted - May 31, 2007

REINALDO E. RIVERA, J.P.
ANITA R. FLORIO
STEVEN W. FISHER
MARK C. DILLON, JJ.

2005-08364

DECISION & ORDER

People of State of New York,
respondent, v Craig Hardy, appellant.

Steven Banks, New York, N.Y. (Laura Lieberman Cohen of counsel), for appellant.

Richard A. Brown, District Attorney, Kew Gardens, N.Y. (John M. Castellano,
Nicoletta J. Caferri, and Rona I. Kugler of counsel), for respondent.

Appeal by the defendant from an order of the Supreme Court, Queens County (Cooperman, J.), dated July 25, 2005, which, after a hearing and upon 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.

Under risk factor 7 of the Sex Offender Registration Act Guidelines (hereinafter the SORA Guidelines), 20 points are assessed if the sex offender's crime, inter alia, was "directed at a stranger" (Sex Offender Registration Act: Risk Assessment Guidelines and Commentary at 12 [1997 ed]). The SORA Guidelines also provide that "the term 'stranger' includes anyone who is not an actual acquaintance of the [offender]" (*id.*).

In establishing an offender's appropriate risk level assessment under SORA, the People have "the burden of proving the facts supporting the determinations sought by clear and convincing evidence" (Correction Law § 168-n[3]; *see People v Hegazy*, 25 AD3d 675, 676; *People v Dickison*, 24 AD3d 980, 981; *People v Arotin*, 19 AD3d 845, 847).

July 17, 2007

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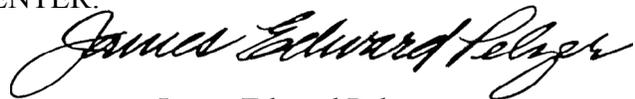
Here, the proof presented by the People was sufficient to show, by clear and convincing evidence, that the victim was a “stranger” to the defendant within the meaning of the SORA Guidelines for risk factor 7.

Accordingly, the Supreme Court properly assessed 20 points under risk factor 7 for a total score of 125 points, placing the defendant’s point range within that of a level three offender.

The defendant’s remaining contentions are without merit.

RIVERA, J.P., FLORIO, FISHER and DILLON, JJ., concur.

ENTER:

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

James Edward Pelzer
Clerk of the Court