

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

D16377
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_____AD3d_____

Submitted - September 10, 2007

STEPHEN G. CRANE, J.P.
ROBERT A. LIFSON
EDWARD D. CARNI
RUTH C. BALKIN, JJ.

2005-09554

DECISION & ORDER

The People, etc., respondent,
v Stephen Kelemen, appellant.

(Ind. No. 744-05)

Robert C. Mitchell, Riverhead, N.Y. (James H. Miller III of counsel), for appellant.

Thomas J. Spota, District Attorney, Riverhead, N.Y. (Michael J. Brennan of counsel),
for respondent.

Appeal by the defendant from a judgment of the County Court, Suffolk County (Kahn, J.), rendered September 22, 2005, convicting him of course of sexual conduct against a child in the second degree, upon his plea of guilty, and imposing sentence.

ORDERED that the judgment is affirmed.

The defendant filed a notice of appeal from the judgment, but has raised no issue that may be decided on an appeal from the judgment. Instead, he seeks review only of the County Court's determination that he is a level three offender under the Sex Offender Registration Act (hereinafter SORA). A SORA determination is not part of a judgment upon a criminal conviction and may not be reviewed on an appeal from a judgment on a criminal conviction (*see People v Kearns*, 95 NY2d 816, 817; *People v Stevens*, 91 NY2d 270, 277). Therefore, the judgment must be affirmed.

October 2, 2007

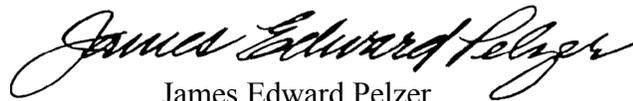
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We note that an order issued upon a SORA determination may be appealed separately under the Civil Practice Law and Rules (*see* Correction Law § 168-n[3]; CPLR arts 55–57).

CRANE, J.P., LIFSON, CARNI and BALKIN, JJ., concur.

ENTER:

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

James Edward Pelzer
Clerk of the Court