

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

D16706
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_____AD3d_____

Submitted - October 4, 2007

REINALDO E. RIVERA, J.P.
GABRIEL M. KRAUSMAN
ANITA R. FLORIO
MARK C. DILLON, JJ.

2006-07395

DECISION & ORDER

People of State of New York, respondent,
v Curtis R. Adams, appellant.

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

Thomas J. Spota, District Attorney, Riverhead, N.Y. (Karla Lato of counsel; William C. Nash on the brief), for respondent.

Appeal by the defendant from an order of the County Court, Suffolk County (Weber, J.), dated July 5, 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.

Contrary to the defendant's contention, the County Court providently exercised its discretion in denying his request for a downward departure from his presumptive risk level as shown on the Risk Assessment Instrument. The defendant failed to present clear and convincing evidence of special circumstances warranting such a departure. In fact, his contention that his ill health would militate against his reoffending is belied by his own actions in committing a sexual offense at a time when his kidneys allegedly had already failed (*see People v Inghilleri*, 21 AD3d 404, 405-406; *People v Davis*, 26 AD3d 364; *cf. People v Abdullah*, 31 AD3d 515, 516).

October 30, 2007

PEOPLE OF STATE OF NEW YORK v ADAMS

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In light of our determination, we need not reach the People's contentions.

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

ENTER:

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

James Edward Pelzer
Clerk of the Court