

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

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Submitted - November 30, 2007

WILLIAM F. MASTRO, J.P.
JOSEPH COVELLO
DANIEL D. ANGIOLILLO
EDWARD D. CARNI, JJ.

2006-09094

DECISION & ORDER

People of State of New York, respondent,
v James Green, appellant.

Stephen C. Filler, Tarrytown, N.Y., for appellant.

Janet DiFiore, District Attorney, White Plains, N.Y. (Hae Jin Liu, Richard Longworth Hecht, and Anthony J. Servino of counsel), for respondent.

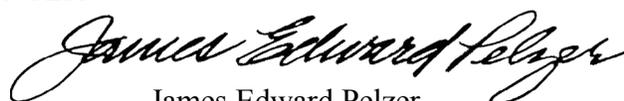
Appeal by the defendant from an order of the County Court, Westchester County (Bellantoni, J.), entered August 23, 2006, which, after a hearing, designated him a level three sex offender pursuant to Correction Law article 6-C.

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

Contrary to the defendant's contention, the County Court's determination to designate him a level three sex offender is supported by clear and convincing evidence, and thus, should not be disturbed (*see* Correction Law § 168-n[3]; *People v Leeks*, 43 AD3d 1251, 1252; *People v Davenport*, 38 AD3d 634, 635). Furthermore, the defendant failed to present clear and convincing evidence of the existence of mitigating factors warranting a downward departure from his presumptive risk level (*see People v Adams*, 44 AD3d 1020; *People v Williams*, 34 AD3d 662; *People v Lombard*, 30 AD3d 573, 574; *People v Davis*, 26 AD3d 364; *People v Dexter*, 21 AD3d 403, 404).

MASTRO, J.P., COVELLO, ANGIOLILLO and CARNI, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court

January 15, 2008

PEOPLE OF STATE OF NEW YORK v GREEN