

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

D18256
C/kmg

____AD3d____

Submitted - January 18, 2008

WILLIAM F. MASTRO, J.P.
ANITA R. FLORIO
HOWARD MILLER
THOMAS A. DICKERSON, JJ.

2005-03697

DECISION & ORDER

People of State of New York, respondent,
v Dwayne Williams, appellant.

Lynn W. L. Fahey, New York, N.Y. (William Kastin of counsel), for appellant.

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

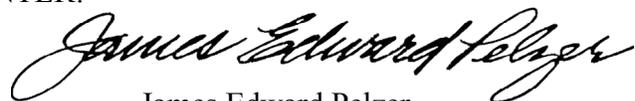
Appeal by the defendant from an order of the Supreme Court, Kings County (Marrero, J.), dated March 15, 2005, which, after a hearing to redetermine the defendant's sex offender risk level pursuant to the stipulation of settlement in *Doe v Pataki* (3 F Supp 2d 456), designated him a level three sex offender pursuant to Correction Law article 6-C.

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

The defendant failed to show by clear and convincing evidence that special circumstances existed warranting a downward departure from his presumptive risk level three designation. Accordingly, the Supreme Court providently exercised its discretion in designating him a level three sex offender (*see People v Maiello*, 32 AD3d 463; *People v Guaman*, 8 AD3d 545; *cf. People v Abdullah*, 31 AD3d 515, 516).

MASTRO, J.P., FLORIO, MILLER and DICKERSON, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court

March 4, 2008

PEOPLE OF STATE OF NEW YORK v WILLIAMS