

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

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_____AD3d_____

Submitted - February 4, 2008

ROBERT A. SPOLZINO, J.P.
DANIEL D. ANGIOLILLO
RUTH C. BALKIN
JOHN M. LEVENTHAL, JJ.

2005-05188

DECISION & ORDER

People of State of New York, respondent,
v Robert Alvarez, appellant.

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

Daniel M. Donovan, Jr., District Attorney, Staten Island, N.Y. (Anne Grady of counsel), for respondent.

Appeal by the defendant from an order of the Supreme Court, Richmond County (Rienzi, J.), dated April 8, 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.

Contrary to the defendant's contentions, the Supreme Court's determination to designate the defendant a level three sex offender was supported by clear and convincing evidence, based on the facts and admissions contained in the pre-sentence investigation report, the case summary, and the risk assessment instrument of the Board of Examiners of Sex Offenders (*see* Correction Law §168-n; *People v Yarborough*, 43 AD3d 1129, 1130, *lv denied* 9 NY3d 816; *People v Penson*, 38 AD3d 866, 867; *People v Romana*, 35 AD3d 1241; *People v Carlton*, 307 AD2d 763, 764).

SPOLZINO, J.P., ANGIOLILLO, BALKIN and LEVENTHAL, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court

March 18, 2008

PEOPLE OF STATE OF NEW YORK v ALVAREZ