

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

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_____AD3d_____

Submitted - February 15, 2008

HOWARD MILLER, J.P.
JOSEPH COVELLO
RANDALL T. ENG
CHERYL E. CHAMBERS, JJ.

2006-10786

DECISION & ORDER

People of State of New York, respondent, v
Jonathan Jaramillo, appellant.

Janet Gandolfo, Sleepy Hollow, N.Y., for appellant.

Janet DiFiore, District Attorney, White Plains, N.Y. (Richard Longworth Hecht and Anthony J. Servino of counsel; Owein Charles Levin on the brief), for respondent.

Appeal by the defendant from an order of the County Court, Westchester County (Loehr, J.), entered April 6, 2006, which, after a hearing, designated him a level two 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 two sex offender is supported by clear and convincing evidence, and thus, should not be disturbed (*see* Correction Law § 168-n[3]; *People v Wright*, 37 AD3d 797; Sex Offender Registration Act: Risk Assessment Guidelines and Commentary at 11-12 [2006 ed.]). 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 Martinez*, 39 AD3d 835; *People v Guaman*, 8 AD3d 545).

MILLER, J.P., COVELLO, ENG and CHAMBERS, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court

March 25, 2008

PEOPLE OF STATE OF NEW YORK v JARAMILLO