

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

D18937
C/kmg

_____AD3d_____

Submitted - March 25, 2008

DAVID S. RITTER, J.P.
JOSEPH COVELLO
DANIEL D. ANGIOLILLO
WILLIAM E. McCARTHY, JJ.

2007-03857

DECISION & ORDER

People of State of New York, respondent,
v Christopher Niola, appellant.

Steven Banks, New York, N.Y. (Steven J. Miraglia of counsel), for appellant.

Charles J. Hynes, District Attorney, Brooklyn, N.Y. (Leonard Joblove and Morgan J. Dennehy of counsel), for respondent.

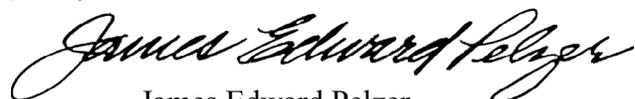
Appeal by the defendant from an order of the Supreme Court, Kings County (Sullivan J.), dated March 28, 2007, which, after a hearing, designated him a level three sex offender pursuant to Correction Law article 6-C.

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

There was clear and convincing evidence to support the designation of the defendant as a level three sex offender (*see* Correction Law § 168-n[3]; *People v Leeks*, 43 AD3d 1251, 1252; *People v Davenport*, 38 AD3d 634, 635; *People v Fisher*, 36 AD3d 880; *People v Inghelleri*, 21 AD3d 404; *People v Guaman*, 8 AD3d 545). There is no merit to the defendant's contention that he was improperly assessed certain points under the Risk Assessment Instrument, or that he was otherwise entitled to a downward departure from his presumptive risk level three designation (*see People v Williams*, 34 AD3d 662; *People v Abdullah*, 31 AD3d 515; *People v Lombard*, 30 AD3d 573, 574; *see also People v Stevens*, 48 AD3d 536; *People v Davenport*, 38 AD3d 634; *People v Vaughn*, 26 AD3d 776).

RITTER, J.P., COVELLO, ANGIOLILLO and McCARTHY, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court

April 22, 2008

PEOPLE OF STATE OF NEW YORK v NIOLA