

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

D19327
W/kmg

_____AD3d_____

Submitted - March 28, 2008

ROBERT A. SPOLZINO, J.P.
ROBERT A. LIFSON
ANITA R. FLORIO
THOMAS A. DICKERSON, JJ.

2006-01609

DECISION & ORDER

People of State of New York, respondent,
v Richard C. Wiedeman, appellant.

David Goodman, Poughkeepsie, N.Y. (Steven Levine of counsel), for appellant.

William V. Grady, District Attorney, Poughkeepsie, N.Y. (Bridget Rahilly Steller of counsel), for respondent.

Appeal by the defendant from an order of the County Court, Dutchess County (Hayes, J.), dated February 10, 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.

The defendant's contention that the County Court improperly assessed him 20 points in connection with Risk Factor 6 is unpreserved for appellate review (*see People v Coleman*, 45 AD3d 1118, *lv denied* 10 NY3d 705; *People v Gliatta*, 27 AD3d 441). In any event, the County Court's determination to assess the defendant 20 points for Risk Factor 6 is supported by clear and convincing evidence based, inter alia, on facts contained in the presentence report, the case summary prepared by the Board of Examiners of Sex Offenders, and the risk assessment instrument (*see People v Thompson*, 31 AD3d 409; *People v White*, 25 AD3d 677).

In light of our determination, we need not reach the defendant's remaining contention.

SPOLZINO, J.P., LIFSON, FLORIO and DICKERSON, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court

May 20, 2008

PEOPLE OF STATE OF NEW YORK v WIEDEMAN