

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

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_____AD3d_____

Submitted - September 19, 2008

REINALDO E. RIVERA, J.P.
MARK C. DILLON
JOSEPH COVELLO
DANIEL D. ANGIOLILLO, JJ.

2007-06033

DECISION & ORDER

People of State of New York, etc., respondent,
v William E. Williams, appellant.

Steven Banks, New York, N.Y. (Susan Epstein 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 June 20, 2007, 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.

The defendant's contention that the Supreme Court improperly assessed points for both the age of the victim and the incapacity of the victim is unpreserved for appellate review (*see People v Awalt*, 17 AD3d 336; *People v Angelo*, 3 AD3d 482; *People v Baker*, 303 AD2d 570). In any event, the contention is without merit (*see People v Stevens*, 48 AD3d 536; *People v Davenport*, 38 AD3d 634; *People v Vaughn*, 26 AD3d 776). The court providently exercised its discretion in denying the defendant's request for a downward departure.

RIVERA, J.P., DILLON, COVELLO and ANGIOLILLO, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court

October 14, 2008

PEOPLE OF STATE OF NEW YORK v WILLIAMS