

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

D21442
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_____AD3d_____

Submitted - November 21, 2008

PETER B. SKELOS, J.P.
FRED T. SANTUCCI
MARK C. DILLON
JOSEPH COVELLO, JJ.

2007-09327

DECISION & ORDER

People of State of New York, respondent,
v Keenan Leung, appellant.

Lynn W. L. Fahey, New York, N.Y. (Warren S. Landau of counsel), for appellant.

Charles J. Hynes, District Attorney, Brooklyn, N.Y. (Leonard Joblove and Morgan J. Dennehy of counsel; Ross Yaggy on the brief), for respondent.

Appeal by the defendant from an order of the Supreme Court, Kings County (Marrus, J.), dated September 11, 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.

Contrary to the defendant's contention, there was clear and convincing proof to warrant the assessment of points against him for a history of substance abuse as set forth in the risk assessment instrument of the Board of Examiners of Sex Offenders (hereinafter the RAI). The Supreme Court properly designated the defendant a level three sex offender based upon the facts of the case and the RAI (*see* Correction Law § 168-n; *People v Smolen*, 47 AD3d 623; *People v Yarborough*, 43 AD3d 1129; *People v Grimmer*, 29 AD3d 766).

SKELOS, J.P., SANTUCCI, DILLON and COVELLO, JJ., concur.

ENTER:


James Edward Pelzer

Clerk of the Court

December 9, 2008

PEOPLE OF STATE OF NEW YORK v LEUNG