

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

D21667
C/kmg

_____AD3d_____

Submitted - December 2, 2008

WILLIAM F. MASTRO, J.P.
HOWARD MILLER
EDWARD D. CARNI
CHERYL E. CHAMBERS, JJ.

2007-11417

DECISION & ORDER

People of State of New York, respondent,
v Pablo Molina, appellant.

Stephen J. Pittari, White Plains, N.Y. (David B. Weisfuse of counsel), for appellant.

Janet DiFiore, District Attorney, White Plains, N.Y. (Lois Cullen Valerio, Richard Longworth Hecht, and Anthony J. Servino of counsel), for respondent.

Appeal by the defendant from an order of the County Court, Westchester County (Bellantoni, J.), entered November 13, 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.

The defendant was properly adjudicated a level three sex offender, based, inter alia, on clear and convincing evidence of use of a dangerous instrument during the course of his sex offense (*see People v Owusu*, 93 NY2d 398, 400-404; *People v Carter*, 53 NY2d 113, 117; *People v Williams*, 40 AD3d 402; *People v Travis*, 273 AD2d 544, 547).

The defendant's remaining contention is unpreserved for appellate review and, in any event, is without merit.

MASTRO, J.P., MILLER, CARNI and CHAMBERS, JJ., concur.

ENTER:


James Edward Pelzer
Clerk of the Court

December 30, 2008

PEOPLE OF STATE OF NEW YORK v MOLINA