

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

D23376
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_____AD3d_____

Submitted - March 26, 2009

ROBERT A. SPOLZINO, J.P.
MARK C. DILLON
ANITA R. FLORIO
ARIEL E. BELEN, JJ.

2007-09176

DECISION & ORDER

People of State of New York, respondent,
v Adam L. Ruben, appellant.

Lynn W. L. Fahey, New York, N.Y. (Anna Pervukhin 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 (Brennan, J.), dated October 3, 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 petitioner was convicted in 1982 of rape in the first degree. In 1996 a petition to adjudicate him a sex offender under the newly-enacted Sex Offender Registration Act (Correction Law article 6-c) (hereinafter SORA) was denied without prejudice to renewal. The application was not renewed until 2005. After a hearing, the petitioner was adjudicated a level three sex offender in 2007.

The petitioner argues that he was deprived of his constitutional right to substantive due process of law (*see* US Const Tenth, Fourteenth Amends; NY Const, art I, § 6) by the nine-year delay because he is subject now to a lifetime registration requirement under the law as enacted in 2002 (L 2002, ch 11, § 13), rather than to the 10-year registration requirement under the law that was in effect in 1996 (*see* Correction Law former § 168-h; L 1995, ch 192). The petitioner failed to raise this argument before the Supreme Court, and thus it is not properly before us on appeal.

September 8, 2009

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The defendant's remaining contentions are without merit (*cf. People v Abdullah*, 31 AD3d 515).

SPOLZINO, J.P., DILLON, FLORIO and BELEN, JJ., concur.

ENTER:

A handwritten signature in black ink, reading "James Edward Pelzer". The signature is written in a cursive, flowing style.

James Edward Pelzer
Clerk of the Court