

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

D24085
O/prt

_____AD3d_____

Submitted - June 2, 2009

STEVEN W. FISHER, J.P.
ANITA R. FLORIO
JOSEPH COVELLO
THOMAS A. DICKERSON, JJ.

2008-08503

DECISION & ORDER

People of State of New York, respondent,
v Michael J. Atkinson, appellant.

Robert C. Mitchell, Riverhead, N.Y. (James H. Miller III of counsel), for appellant.

Thomas J. Spota, District Attorney, Riverhead, N.Y. (Grazia DiVincenzo of counsel),
for respondent.

Appeal by the defendant from an order of the County Court, Suffolk County (Hudson, J.), dated August 25, 2008, 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.

There was clear and convincing evidence to support the County Court's determination to designate the defendant a level three sex offender (*see People v Fisher*, 36 AD3d 880; *People v Inghilleri*, 21 AD3d 404; *People v Guaman*, 8 AD3d 545). There is no merit to the defendant's contention that he was entitled to a downward departure from this risk level (*see People v Abdullah*, 31 AD3d 515; *People v Ventura*, 24 AD3d 527; *People v Dexter*, 21 AD3d 403).

FISHER, J.P., FLORIO, COVELLO and DICKERSON, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court

September 15, 2009

PEOPLE OF STATE OF NEW YORK v ATKINSON