

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

D24459
G/kmg

_____AD3d_____

Submitted - September 26, 2008

REINALDO E. RIVERA, J.P.
ROBERT A. SPOLZINO
ANITA R. FLORIO
JOHN M. LEVENTHAL, JJ.

2006-07790

DECISION & ORDER

People of State of New York, respondent,
v Leon Smith, appellant.

Lynn W. L. Fahey, New York, N.Y. (Lisa Napoli 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 (Tomei, J.), dated August 8, 2006, 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, the risk assessment instrument and case summary prepared by the Board of Examiners of Sex Offenders supported, by clear and convincing evidence, a level three sex-offender designation (*see People v Mingo*, 12 NY3d 563, 573; *People v Hegazy*, 25 AD3d 675). The defendant did not dispute the evidence submitted or offer any contradictory evidence (*see People v Penson*, 38 AD3d 866).

RIVERA, J.P., SPOLZINO, FLORIO and LEVENTHAL, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court

September 29, 2009

PEOPLE OF STATE OF NEW YORK v SMITH