

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

D24607
G/kmg

_____AD3d_____

Submitted - September 22, 2009

REINALDO E. RIVERA, J.P.
ANITA R. FLORIO
RANDALL T. ENG
JOHN M. LEVENTHAL, JJ.

2005-07792

DECISION & ORDER

People of State of New York, respondent, v
John L. Donaldson, appellant.

Kent V. Moston, Hempstead, N.Y. (Jeremy L. Goldberg and Dori Cohen of counsel),
for appellant.

Kathleen M. Rice, District Attorney, Mineola, N.Y. (Robert A. Schwartz and Michael
E. Soffer of counsel), for respondent.

Appeal by the defendant from an order of the Supreme Court, Nassau County
(Donnino, J.), dated June 17, 2005, which, after a hearing to redetermine his sex offender risk level
pursuant to the stipulation of settlement in *Doe v Pataki* (3 F Supp2d 456), 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 failed to show, by clear and convincing evidence, that special
circumstances existed warranting a downward departure from his presumptive risk level three
designation. Accordingly, the Supreme Court providently exercised its discretion in designating him
a level three sex offender (*see People v Ainoris*, 57 AD3d 864; *People v Bowens*, 55 AD3d 809, 810;
People v Windham, 37 AD3d 571, *affd* 10 NY3d 801; *People v Morales*, 33 AD3d 982, 983).

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

ENTER:



James Edward Pelzer
Clerk of the Court

October 13, 2009

PEOPLE OF STATE OF NEW YORK v DONALDSON