

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

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_____AD3d_____

Submitted - April 23, 2010

STEVEN W. FISHER, J.P.
RUTH C. BALKIN
SHERI S. ROMAN
SANDRA L. SGROI, JJ.

2009-06304

DECISION & ORDER

People of State of New York, respondent, v Tyrone
Burch, 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.

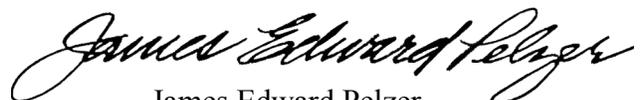
Appeal by the defendant from an order of the County Court, Suffolk County (Kahn,
J.), dated June 25, 2009, which, after a hearing, designated him a level three sex offender pursuant
to Correction Law article 6-C.

ORDERED that the order is affirmed, without costs or disbursements.

The County Court did not improvidently exercise its discretion in declining to
downwardly depart from the defendant's presumptive risk level, inasmuch as there was no clear and
convincing evidence in the record of a mitigating factor "of a kind or to a degree, not otherwise
adequately taken into account by the guidelines" (Sex Offender Registration Act: Risk Assessment
Guidelines and Commentary at 4 [2006 ed]; see *People v Kraus*, 66 AD3d 854; *People v Jacobs*, 61
AD3d 835, 836; *People v Burgos*, 39 AD3d 520; *People v Agard*, 35 AD3d 568).

FISHER, J.P., BALKIN, ROMAN and SGROI, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court

May 25, 2010

PEOPLE OF STATE OF NEW YORK v BURCH