

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

D27574  
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Submitted - May 4, 2010

REINALDO E. RIVERA, J.P.  
ANITA R. FLORIO  
HOWARD MILLER  
LEONARD B. AUSTIN, JJ.

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2008-05924

DECISION & ORDER

People of State of New York, respondent, v  
Robert Harris, appellant.

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Richard L. Herzfeld, New York, N.Y., 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  
(Gazzillo, J.), dated June 11, 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.

The County Court's designation of the defendant as a level three sex offender under  
the Sex Offender Registration Act (hereinafter SORA) was supported by clear and convincing  
evidence (*see* Correction Law art. 6-C; *People v Dong V. Dao*, 9 AD3d 401, 401-402). Contrary  
to the defendant's contention, the County Court properly assessed 15 points, under risk factor 11,  
for a history of drug abuse (*see* Sex Offender Registration Act: Risk Assessment Guidelines and  
Commentary, at 15 [2006 ed.]; *People v Guitard*, 57 AD3d 751, 752). The presentence reports  
offered by the People at the SORA hearing constituted "reliable hearsay" (Correction Law § 168-  
n[3]; *see People v Mingo*, 12 NY3d 563, 573), and provided a sufficient basis for the assessment of  
those 15 points.

RIVERA, J.P., FLORIO, MILLER and AUSTIN, JJ., concur.

ENTER:



James Edward Pelzer  
Clerk of the Court

June 1, 2010

PEOPLE OF STATE OF NEW YORK v HARRIS