

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

D28427  
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\_\_\_\_\_AD3d\_\_\_\_\_

Submitted - September 7, 2010

MARK C. DILLON, J.P.  
ANITA R. FLORIO  
JOHN M. LEVENTHAL  
CHERYL E. CHAMBERS, JJ.

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2008-02332

DECISION & ORDER

People of State of New York, respondent, v Harry  
Abrams, appellant.

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Lynn W. L. Fahey, New York, N.Y. (Warren S. Landau of counsel), for appellant.

Daniel M. Donovan, Jr., District Attorney, Staten Island, N.Y. (Morrie I. Kleinbart  
of counsel; Anthony Ameduri on the brief), for respondent.

Appeal by the defendant from an order of the Supreme Court, Richmond County  
(Rienzi, J.), dated February 26, 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.

Contrary to the defendant's contentions, he was properly assessed 15 points for risk  
factor 11 (history of drug or alcohol abuse). In 1986, the defendant was convicted of criminal  
possession of a controlled substance in the fifth degree. In 1993, he was convicted of criminal sale  
of a controlled substance in the third degree. According to the case summary prepared by the Board  
of Examiners of Sex Offenders, which constitutes "reliable hearsay" (Correction Law § 168-n[3]; *see*  
*People v Mabee*, 69 AD3d 820), the defendant admitted to prison officials in or around December  
1993 that he had a drug problem. Moreover, the case summary indicated that the defendant recently  
had enrolled in a prison sex offender program designed for chemically-dependent offenders.

The defendant's prior convictions, coupled with the information contained in the case  
summary, were sufficient to sustain the points assessed (*cf. People v Luebbert*, 73 AD3d 1399;  
*People v Hewitt*, 73 AD3d 880, *lv denied* \_\_\_\_\_NY3d\_\_\_\_\_, 2010 NY Slip Op 82103 [2010];  
*People v Mabee*, 69 AD3d 820).

September 28, 2010

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Accordingly, the Supreme Court's designation of the defendant as a level three sex offender under the Sex Offender Registration Act (*see* Correction Law article 6-C) is supported by clear and convincing evidence and should not be disturbed (*see People v Harris*, 74 AD3d 767).

The defendant's argument that the Supreme Court misapprehended a portion of his criminal history is unpreserved for appellate review (*see People v Teagle*, 64 AD3d 549, 550).

DILLON, J.P., FLORIO, LEVENTHAL and CHAMBERS, JJ., concur.

ENTER:

A handwritten signature in black ink that reads "Matthew G. Kiernan". The signature is written in a cursive, slightly slanted style.

Matthew G. Kiernan  
Clerk of the Court