

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

D29545
H/kmb

_____AD3d_____

Submitted - December 6, 2010

REINALDO E. RIVERA, J.P.
THOMAS A. DICKERSON
PLUMMER E. LOTT
SANDRA L. SGROI, JJ.

2009-00279

DECISION & ORDER

People of State of New York, respondent,
v Kenyon Nesbitt, appellant.

Steven Banks, New York, N.Y. (Joanne Legano Ross of counsel), for appellant.

Richard A. Brown, District Attorney, Kew Gardens, N.Y. (John M. Castellano,
Jeanette Lifschitz, and Jaclyn Belson of counsel), for respondent.

Appeal by the defendant from an order of the Supreme Court, Queens County (Kron, J.), dated December 8, 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 defendant's contention that he was entitled to a downward departure from his presumptive level three risk assessment is without merit (*see People v Marin*, 48 AD3d 535, 535-536; *People v Williams*, 46 AD3d 652; *People v Velez*, 38 AD3d 867, 868; *People v Williams*, 19 AD3d 388). Accordingly, the Supreme Court providently exercised its discretion in designating the defendant a level three sex offender.

RIVERA, J.P., DICKERSON, LOTT and SGROI, JJ., concur.

ENTER:


Matthew G. Kiernan
Clerk of the Court

December 28, 2010

PEOPLE OF STATE OF NEW YORK v NESBITT