

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

D29645
G/kmb

_____AD3d_____

Submitted - December 13, 2010

PETER B. SKELOS, J.P.
THOMAS A. DICKERSON
ARIEL E. BELEN
PLUMMER E. LOTT, JJ.

2007-05798

DECISION & ORDER

People of State of New York, respondent,
v Philip King, appellant.

Philip King, South Ozone Park, N.Y., appellant pro se.

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, as limited by his brief, from so much of an order of the Supreme Court, Queens County (Grosso, J.), dated June 6, 2007, as, after a hearing, designated him a level two sex offender pursuant to Correction Law article 6-C.

ORDERED that the order is affirmed insofar as appealed from, without costs or disbursements.

In establishing a defendant's risk level assessment pursuant to the Sex Offender Registration Act (*see* Correction Law art 6-C; hereinafter SORA), the People bear the burden of establishing the facts supporting the determination sought by clear and convincing evidence (*see* Correction Law § 168-n[3]; *see also* Sex Offender Registration Act: Risk Assessment Guidelines and Commentary at 5 [2006 ed]; *People v Hewitt*, 73 AD3d 880; *People v Chambers*, 66 AD3d 748, 748; *People v Bright*, 63 AD3d 1133, 1134; *People v Hardy*, 42 AD3d 487). Here, contrary to the defendant's contention, the Supreme Court properly assessed 20 points under risk factor 7 because he was a stranger to the victim within the meaning of the SORA Risk Assessment Guidelines and Commentary (*see People v Britt*, 66 AD3d 853, 853; *People v Milton*, 55 AD3d 1073; *People v Hardy*, 42 AD3d 487; *People v Kaminski*, 38 AD3d 1127, 1128; *see also* Sex Offender Registration

January 18, 2011

Page 1.

PEOPLE OF STATE OF NEW YORK v KING

Act: Risk Assessment Guidelines and Commentary at 12 [2006 ed]; *compare People v Helmer*, 65 AD3d 68; *People v McGraw*, 24 AD3d 525, 526). Accordingly, the Supreme Court correctly designated the defendant a level two sex offender.

SKELOS, J.P., DICKERSON, BELEN and LOTT, JJ., concur.

ENTER:


Matthew G. Kiernan
Clerk of the Court