

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

D30354  
C/prt

\_\_\_\_\_AD3d\_\_\_\_\_

Submitted - February 7, 2011

REINALDO E. RIVERA, J.P.  
RUTH C. BALKIN  
JOHN M. LEVENTHAL  
L. PRISCILLA HALL, JJ.

2005-07496

DECISION & ORDER

People of State of New York, respondent,  
v Ronald J. Ledbetter, appellant.

Kent V. Moston, Hempstead, N.Y. (Jeremy L. Goldberg and Dori Cohen of counsel),  
for appellant.

Kathleen M. Rice, District Attorney, Mineola, N.Y. (Douglas Noll and Andrew  
Fukuda of counsel), for respondent.

Appeal by the defendant from an order of the Supreme Court, Nassau County  
(Donnino, J.), dated June 17, 2005, which, after a hearing to redetermine his sex offender risk level  
pursuant to the stipulation of settlement in *Doe v Pataki* (3 F Supp 2d 456), 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 contention, the People established by clear and convincing  
evidence the applicability of the fourth override, namely, that there has been "a clinical assessment  
that the offender has a psychological, physical, or organic abnormality that decreases his ability to  
control impulsive sexual behavior" (Sex Offender Registration Act: Risk Assessment Guidelines and  
Commentary at 4 [2006 ed]; *see People v Martin*, 79 AD3d 717). The defendant was diagnosed with  
pedophilia and, accordingly, an override to a level three designation was appropriate (*see People v  
Hoffman*, 62 AD3d 976).

In any event, even absent the aforementioned override, under the facts of this case,

March 8, 2011

Page 1.

an upward departure to a risk level three was warranted (*see* Sex Offender Registration Act: Risk Assessment Guidelines and Commentary at 4-5 [2006 ed.]; *People v Thompson*, 31 AD3d 409).  
The defendant's remaining contentions are without merit.

RIVERA, J.P., BALKIN, LEVENTHAL and HALL, JJ., concur.

ENTER:

  
Matthew G. Kiernan  
Clerk of the Court