

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

D31195
W/kmb

_____AD3d_____

Submitted - April 12, 2011

DANIEL D. ANGIOLILLO, J.P.
ANITA R. FLORIO
PLUMMER E. LOTT
LEONARD B. AUSTIN, JJ.

2010-04060

DECISION & ORDER

People of State of New York, respondent, v
Ruben Martinez, appellant.

Robert C. Mitchell, Riverhead, N.Y. (James H. Miller III of counsel), for appellant.

Thomas J. Spota, District Attorney, Riverhead, N.Y. (Edward A. Bannan of counsel),
for respondent.

Appeal by the defendant from an order of the County Court, Suffolk County (Kahn J.), dated March 23, 2010, which, after a hearing pursuant to Correction Law article 6-C, designated him a level three sex offender.

ORDERED that the order is affirmed, without costs or disbursements.

The Supreme Court's determination to designate the defendant a level three sex offender was supported by clear and convincing evidence (*see People v Rivera*, 73 AD3d 881, 882; *People v Turner*, 68 AD3d 1082; *People v Fisher*, 36 AD3d 880). There is no merit to the defendant's contention that he was entitled to a downward departure from this risk level (*see People v Gonzalez*, 48 AD3d 284; *People v Lombard*, 30 AD3d 573; *see also People v Johnson*, 77 AD3d 1039, 1040).

ANGIOLILLO, J.P., FLORIO, LOTT and AUSTIN, JJ., concur.

ENTER:


Matthew G. Kiernan
Clerk of the Court

May 10, 2011

PEOPLE OF STATE OF NEW YORK v MARTINEZ