

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

D32095  
W/hu

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

Submitted - June 24, 2011

REINALDO E. RIVERA, J.P.  
JOSEPH COVELLO  
ANITA R. FLORIO  
PLUMMER E. LOTT, JJ.

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2010-06673

DECISION & ORDER

People of State of New York, respondent,  
v Curtis Livingston, appellant.

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Harold, Salant, Strassfield & Spielberg, White Plains, N.Y. (Rachel J. Filasto of counsel), for appellant.

Janet DiFiore, District Attorney, White Plains, N.Y. (Lori A. Alesio, Laurie Sapakoff, and Richard Longworth Hecht of counsel), for respondent.

Appeal by the defendant from an order of the Supreme Court, Westchester County (Molea, J.) dated May 25, 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.

Contrary to the defendant's contention, the Supreme Court's order adequately sets forth the findings of fact and conclusions of law upon which its determination was based (*see* Correction Law § 168-n[3]; *cf. People v Burke*, 68 AD3d 1175, 1176). Moreover, the record on appeal permits meaningful appellate review of the propriety of the Supreme Court's risk-level determination.

The Supreme Court properly determined that the defendant was not entitled to a downward departure from his presumptive risk-level assessment and, thus, he was properly

August 16, 2011

PEOPLE OF STATE OF NEW YORK v LIVINGSTON

Page 1.

designated a level three sex offender (*see People v Smith*, 85 AD3d 891; *People v Sivells*, 83 AD3d 1027; *People v Bussie*, 83 AD3d 920, *lv denied* \_\_\_\_\_NY3d\_\_\_\_\_, 2011 NY Slip Op 76743 [2011]).

RIVERA, J.P., COVELLO, FLORIO and LOTT, 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