

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

D32433
C/kmb

_____AD3d_____

Submitted - September 20, 2011

WILLIAM F. MASTRO, J.P.
ANITA R. FLORIO
RANDALL T. ENG
SANDRA L. SGROI, JJ.

2010-02037

DECISION & ORDER

People of State of New York, respondent, v
Michael Palmer, appellant.

Lynn W. L. Fahey, New York, N.Y. (Anna Pervukhin of counsel), for appellant.

Charles J. Hynes, District Attorney, Brooklyn, N.Y. (Leonard Joblove and Linda Breen of counsel), for respondent.

Appeal by the defendant from an order of the Supreme Court, Kings County (Foley, J.), dated February 16, 2010, which, after a hearing pursuant to Correction Law article 6-C, designated him a level two sex offender.

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

Contrary to the defendant's contention, in determining his risk level under the Sex Offender Registration Act (*see* Correction Law article 6-C), the Supreme Court properly assessed points under risk factor 11, pertaining to "[d]rug or [a]lcohol [a]buse," based upon his admission that he was using alcohol at the time of the offense (Sex Offender Registration Act: Risk Assessment Guidelines and Commentary, at 15 [2006 ed.]; *see People v Sterling*, 71 AD3d 654; *People v Britt*, 66 AD3d 853; *People v Carpenter*, 60 AD3d 833). Accordingly, the defendant was properly designated a level two sex offender.

MASTRO, J.P., FLORIO, ENG and SGROI, JJ., concur.

ENTER:


Matthew G. Kiernan

Clerk of the Court

October 4, 2011

PEOPLE OF STATE OF NEW YORK v PALMER