

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

D32638
H/prt

_____AD3d_____

Submitted - October 4, 2011

MARK C. DILLON, J.P.
RUTH C. BALKIN
RANDALL T. ENG
JEFFREY A. COHEN, JJ.

2010-07916

DECISION & ORDER

People of State of New York, respondent,
v Marshall Rosado, appellant.

Lynn W. L. Fahey, New York, N.Y. (Erin R. Collins of counsel), for appellant.

Charles J. Hynes, District Attorney, Brooklyn, N.Y. (Leonard Joblove and Morgan J. Dennehy of counsel; Elisheva Mochkin on the brief), for respondent.

Appeal by the defendant from an order of the Supreme Court, Kings County (Balter, J.), dated August 10, 2010, which, after a hearing, designated him a level two sex offender pursuant to Correction Law article 6-C.

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

The Supreme Court properly determined that the defendant was not entitled to a downward departure from his presumptive risk level and, thus, properly designated him a level two sex offender (*see People of State of New York v Wyatt*, _____AD3d_____, 2011 NY App Div LEXIS 07244 [2d Dept 2011]; *People v Livingston*, 87 AD3d 628; *People v Alston*, 86 AD3d 553, 554; *People v Rodriguez*, 67 AD3d 596, 597; *People v Adams*, 44 AD3d 1020; *People v Wragg*, 41 AD3d 1273, 1274; *cf. People v Stevens*, 55 AD3d 892, 894).

The defendant's remaining contention is without merit.

DILLON, J.P., BALKIN, ENG and COHEN, JJ., concur.

ENTER:



Matthew G. Kiernan
Clerk of the Court

October 25, 2011

PEOPLE OF STATE OF NEW YORK v ROSADO