

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

D32887  
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Submitted - October 6, 2011

DANIEL D. ANGIOLILLO, J.P.  
JOHN M. LEVENTHAL  
LEONARD B. AUSTIN  
SHERI S. ROMAN, JJ.

2010-07261

DECISION & ORDER

People of State of New York, respondent,  
v Ronnie Williams, appellant.

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

Thomas J. Spota, District Attorney, Riverhead, N.Y. (Marcia R. Kucera of counsel),  
for respondent.

Appeal by the defendant from an order of the County Court, Suffolk County (Weber, J.), dated February 10, 2011, which, upon a decision of the same court dated July 13, 2010, made after a hearing, designated him a level three sex offender pursuant to Correction Law article 6-C.

ORDERED that on the Court's own motion, the notice of appeal from the decision dated July 13, 2010, is deemed to be a premature notice of appeal from the order dated February 10, 2011 (*see* CPLR 5520[c]); and it is further,

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

“In establishing an offender’s appropriate risk level under the Sex Offender Registration Act (*see* Correction Law art 6-C; hereinafter SORA), the People bear the burden of proving the facts supporting the determination by ‘clear and convincing evidence’” (*People v Mabee*, 69 AD3d 820, 820, quoting Correction Law § 168-n[3]; *see People v Mingo*, 12 NY3d 563, 571; *People v King*, 80 AD3d 681). Contrary to the defendant’s contention, the County Court properly assessed 30 points under risk factor one (*see People v Kost*, 82 AD3d 729; Sex Offender Registration Act: Risk Assessment Guidelines and Commentary, at 7-8 [2006 ed.]). The presentence report and the case summary prepared by the Board of Examiners of Sex Offenders, offered by the People at

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the SORA hearing, constituted “reliable hearsay” (Correction Law § 168-n[3]; *see People v Mingo*, 12 NY3d at 573; *People v Mabee*, 69 AD3d at 820), and provided a sufficient basis for the assessment of those points (*see People v Pettigrew*, 14 NY3d 406, 408-409).

Accordingly, the County Court correctly designated the defendant a level three sex offender.

ANGIOLILLO, J.P., LEVENTHAL, AUSTIN and ROMAN, JJ., concur.

ENTER:

  
Aprilanne Agostino  
Clerk of the Court