

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

D33352
Y/kmb

_____AD3d_____

Submitted - November 29, 2011

REINALDO E. RIVERA, J.P.
RUTH C. BALKIN
RANDALL T. ENG
LEONARD B. AUSTIN, JJ.

2010-04840

DECISION & ORDER

People of State of New York, respondent, v
Bradley Estrella, appellant.

Steven Banks, New York, N.Y. (Bonnie C. Brennan of counsel), for appellant.

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

Appeal by the defendant from an order of the Supreme Court, Kings County (Mullen, J.), dated June 14, 2011, which, after a hearing, designated him a level two sex offender pursuant to Correction Law article 6-C.

ORDERED that on the Court's own motion, the notice of appeal dated May 14, 2010, is deemed to be a premature notice of appeal from the order dated June 14, 2011 (*see* CPLR 5520[c]); and it is further,

ORDERED that the order dated June 14, 2011, is affirmed, without costs or disbursements.

The defendant's contention that he was entitled to a downward departure from his presumptive level two risk assessment is unpreserved for appellate review (*see People v Bowles*, _____AD3d_____, _____, 2011 NY Slip Op 07826, *5 [2d Dept 2011]; *People v Spring*, 83 AD3d 1028; *People v Iorio*, 74 AD3d 1306, 1307; *People v Williams*, 46 AD3d 652) and, in any event, without merit (*see People v Wyatt*, 89 AD3d 112; *People v Bowles*, _____AD3d at _____

December 20, 2011

Page 1.

PEOPLE OF STATE OF NEW YORK v ESTRELLA

_____, 2011 NY Slip Op 07826, *5 [2d Dept 2011]; *People v Spring*, 83 AD3d at 1028; *People v Iorio*, 74 AD3d at 1307). Accordingly, the Supreme Court properly designated the defendant a level two sex offender.

RIVERA, J.P., BALKIN, ENG and AUSTIN, JJ., concur.

ENTER:


Aprilanne Agostino
Clerk of the Court