

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

D34436
O/kmb

_____AD3d_____

Submitted - March 2, 2012

ANITA R. FLORIO, J.P.
PLUMMER E. LOTT
SANDRA L. SGROI
ROBERT J. MILLER, JJ.

2010-09285

DECISION & ORDER

People of State of New York, respondent,
v Robert Gilligan, appellant.

Kent V. Moston, Hempstead, N.Y. (Jeremy L. Goldberg and Argun M. Ulgen of counsel), for appellant.

Kathleen M. Rice, District Attorney, Mineola, N.Y. (Sarah S. Rabinowitz and Jessica L. Cepriano of counsel), for respondent.

Appeal by the defendant from an order of the County Court, Nassau County (Calabrese, J.), dated August 26, 2010, which, after a hearing, designated him a level three sex offender pursuant to Correction Law article 6-C.

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

There was clear and convincing evidence to support the County Court's determination to designate the defendant a level three sex offender (*see* Correction Law § 168-n[3]; *People v Pettigrew*, 14 NY3d 406; *People v Mingo*, 12 NY3d 563; *People v Leeks*, 43 AD3d 1251, 1252). There is no merit to the defendant's contention that he was improperly assessed certain points under the Risk Assessment Instrument, or that he was entitled to a downward departure from his presumptive risk level three designation (*see People v Wyatt*, 89 AD3d 112, *lv denied* 18 NY3d 803; *People v Mabee*, 69 AD3d 820; *People v Williams*, 34 AD3d 662; *People v Lombard*, 30 AD3d 573, 574; *see also People v Vaughn*, 26 AD3d 776).

FLORIO, J.P., LOTT, SGROI and MILLER, JJ., concur.

ENTER:


Aprilanne Agostino
Clerk of the Court

April 10, 2012

PEOPLE OF STATE OF NEW YORK v GILLIGAN