

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

D20680
O/prt

_____AD3d_____

Submitted - September 18, 2008

A. GAIL PRUDENTI, P.J.
FRED T. SANTUCCI
WILLIAM E. McCARTHY
CHERYL E. CHAMBERS, JJ.

2007-07378

DECISION & ORDER

People of State of New York, respondent,
v Anthony Davis, appellant.

Stephen J. Pittari, White Plains, N.Y. (Jacqueline F. Oliva of counsel), for appellant.

Janet DiFiore, District Attorney, White Plains, N.Y. (Mark A. Garretto, Valerie A. Livingston, and Richard Longworth Hecht of counsel), for respondent.

Appeal by the defendant from an order of the County Court, Westchester County (Bellantoni J.), entered July 18, 2007, which, after a hearing pursuant to Correction Law article 6-C, designated him a level three sex offender.

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 People v Fisher*, 36 AD3d 880; *People v Inghilleri*, 21 AD3d 404; *People v Guaman*, 8 AD3d 545). There is no merit to the defendant's contention that he was entitled to a downward departure from this risk level (*see People v Gonzalez*, 48 AD3d 284; *People v Warren*, 42 AD3d 593; *People v Fortin*, 29 AD3d 765; *People v Tilley*, 305 AD2d 1041; *see also People v Miller*, 48 AD3d 774; *People v Wright*, 37 AD3d 797; *People v Lombard*, 30 AD3d 573, 574).

PRUDENTI, P.J., SANTUCCI, McCARTHY and CHAMBERS, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court

October 14, 2008

PEOPLE OF STATE OF NEW YORK v DAVIS