

SUPREME COURT OF THE STATE OF NEW YORK, APPELLATE DIVISION,
SECOND JUDICIAL DEPARTMENT

People v. Siler

2026 NY Slip Op 01810 · No. 2024-12122 · Decided March 25, 2026

SUMMARY

The Appellate Division, Second Department, affirmed an order designating Donald Siler a level three sex offender under the Sex Offender Registration Act. The court rejected his substantive due process challenge to registration based on a kidnapping conviction involving a child under 17, upheld the assessment of risk points for physical injury, stranger status, and substance abuse, and denied a downward departure.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, Second Judicial Department
WRITING FOR THE COURT	Per curiam; Colleen D. Duffy, J.P.; Paul Wooten, J.; Janice A. Taylor, J.; Phillip Hom, J.
JURISDICTION	Supreme Court of the State of New York, Appellate Division, Second Department
DECIDED	March 25, 2026
DOCKET	2024-12122
DISPOSITION	affirmed
PROCEDURAL POSTURE	Defendant appealed from an order of the County Court, Rockland County, entered after a Sex Offender Registration Act hearing, that designated him a level three sex offender.
STANDARD OF REVIEW	The People must establish the existence of risk-assessment factors by clear and convincing evidence. A defendant seeking a downward departure must identify an appropriate mitigating factor as a matter of law and establish its factual basis by a preponderance of the evidence; the court then exercises discretion based on the totality of the circumstances. Constitutional challenges to SORA are reviewed under substantive due process principles.
PRECEDENTIAL VALUE	Published and precedential New York intermediate appellate decision

PARTIES

Donald Siler v. The People of the State of New York

TOPICS

criminal procedure

due process

appellate procedure

standard of review

PRACTICE AREAS

criminal law

criminal procedure

sex offender registration

QUESTIONS PRESENTED

1. Whether applying SORA to the defendant's first-degree kidnapping conviction violated substantive due process because the offense was not sexually motivated.
2. Whether the County Court properly assessed points under SORA risk factors 1, 7, and 11.
3. Whether the defendant established grounds for a downward departure from the presumptive level three risk classification.

HOLDINGS

1. SORA constitutionally applies to a person convicted of first-degree kidnapping involving a victim under 17 who is not the defendant's parent, regardless of whether the crime involved sex-related conduct or a sexual motive.
2. The assessment of 15 points for infliction of physical injury was proper.
3. The assessment of 20 points for the defendant's being a stranger to the victim was proper.
4. The assessment of 15 points for alcohol use at the time of the offense and a history of substance abuse was proper.
5. The defendant was not entitled to a downward departure because he failed to identify and prove an appropriate mitigating factor that was not adequately accounted for by the Guidelines and that established a lower likelihood of reoffense or danger to the community.

KEY QUOTATIONS

*"Therefore, the defendant's crime is a "sex offense" under SORA, "regardless of whether there was any sex-related conduct or motive during the crime"" (*2)*

*"A defendant seeking a downward departure from the presumptive risk level has the initial burden of '(1) identifying, as a matter of law, an appropriate mitigating factor, namely, a factor which tends to establish a lower likelihood of reoffense or danger to the community and is of a kind, or to a degree, that is otherwise not adequately taken into account by the . . . Guidelines; and (2) establishing the facts in support of its existence by a preponderance of the evidence'" (*2)*

FACTUAL BACKGROUND

In December 2006, the defendant pleaded guilty to first-degree kidnapping under Penal Law § 135.25(1), involving a victim under 17 years old who was not his child, and received an indeterminate sentence of 19 years to life. Because of those facts, SORA required him to register as a sex offender even though he contended that the kidnapping was not sexually motivated. At the SORA hearing, the County Court assessed 120 points, including points for physical injury, stranger status, and alcohol use and substance-abuse history, and designated him a level three sex offender.

PROCEDURAL HISTORY

Siler pleaded guilty in 2006 to first-degree kidnapping and was sentenced to an indeterminate term of 19 years to life. After a SORA hearing, the County Court assessed 120 points, rejected his substantive due process challenge, denied a downward departure, and designated him a level three sex offender. The Appellate Division affirmed.

DISPOSITION

affirmed

CASES CITED

- People ex rel. Johnson v. Superintendent, Adirondack Corr. Facility, 36 N.Y.3d 187, 198-199
- Zinermon v. Burch, 494 U.S. 113, 125
- DeShaney v. Winnebago County Department of Social Services, 489 U.S. 189, 200
- Reno v. Flores, 507 U.S. 292, 301-302
- People v. Edwards, 2025 NY Slip Op 04922, *2
- People v. Knox, 12 N.Y.3d 60, 64-69
- People v. Brown, 41 N.Y.3d 279, 284
- People v. Stuart, 100 N.Y.2d 412, 421
- People v. Madrid, 88 A.D.3d 674, 675
- People v. Gordon, 133 A.D.3d 835, 836
- People v. Pettigrew, 14 N.Y.3d 406, 408
- People v. Delgadillo, 219 A.D.3d 508, 508
- People v. Chiddick, 8 N.Y.3d 445, 447
- People v. Sullivan, 64 A.D.3d 67, 69-71
- People v. Vick, 236 A.D.3d 685, 686
- People v. Mitchell, 142 A.D.3d 542, 543
- People v. Aldarondo, 136 A.D.3d 770, 770-771
- People v. Guitard, 57 A.D.3d 751, 752
- People v. McKinney, 173 A.D.3d 1074, 1075
- People v. Wyatt, 89 A.D.3d 112, 128
- People v. Hernandez, 236 A.D.3d 835, 836

- People v. Claros-Zelayandia, 217 A.D.3d 786, 788
- People v. Peoples, 189 A.D.3d 1282, 1283
- People v. Gil, 194 A.D.3d 862, 863
- People v. Alvarado, 173 A.D.3d 909, 910
- People v. Palmer, 217 A.D.3d 793, 794
- People v. Dipilato, 155 A.D.3d 792, 793

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