

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

People v. Mazzio

Mazzio, 2026 NY Slip Op 03461 (Supreme Court of the State of New York Appellate Division Second Judicial Department 2026) · No. 2025-12809 · Decided June 3, 2026

SUMMARY

The Appellate Division, Second Department, affirmed an order designating Eugene Mazzio a level three sex offender under the Sex Offender Registration Act. The court upheld the assessment of 20 points for unsatisfactory conduct involving sexual misconduct while confined and held that the request for a downward departure was unpreserved and, alternatively, unsupported.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, Second Judicial Department
WRITING FOR THE COURT	Mark C. Dillon, J.P.; Lillian Wan, J.; Lourdes M. Ventura, J.; Susan Quirk, J.
JURISDICTION	Supreme Court of the State of New York, Appellate Division, Second Department
DECIDED	June 3, 2026
DOCKET	2025-12809
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from an order of the Supreme Court, Queens County, entered after a Sex Offender Registration Act hearing, designating the defendant a level three sex offender.
STANDARD OF REVIEW	The court reviewed the SORA risk-factor assessment and the denial of a downward departure for legal and record support, and held that the downward-departure claim was unpreserved because it was not raised at the SORA hearing.
PRECEDENTIAL VALUE	Published intermediate appellate opinion
PARTIES	Eugene Mazzio v. The People of the State of New York

TOPICS

criminal procedure

appellate procedure

preservation of error

standard of review

PRACTICE AREAS

criminal procedure

sex offender registration

QUESTIONS PRESENTED

1. Whether the Supreme Court properly assessed 20 points against the defendant under SORA risk factor 13 for unsatisfactory conduct involving sexual misconduct while confined.
2. Whether the defendant was entitled to a downward departure from the SORA risk-level designation based on purported mitigating factors.

HOLDINGS

1. The Supreme Court properly assessed the defendant 20 points under risk factor 13 for unsatisfactory conduct involving sexual misconduct while confined.
2. The defendant's claim for a downward departure was unpreserved because he did not request a downward departure at the SORA hearing. In any event, he failed to establish that a downward departure was warranted.

FACTUAL BACKGROUND

After a Sex Offender Registration Act hearing, the Supreme Court designated Eugene Mazzio a level three sex offender. The court assessed him 20 points under risk factor 13 for unsatisfactory conduct involving sexual misconduct while confined. On appeal, Mazzio challenged that assessment and asserted that purported mitigating factors warranted a downward departure.

PROCEDURAL HISTORY

Following a hearing under the Sex Offender Registration Act, the Supreme Court, Queens County, designated the defendant a level three sex offender and assessed 20 points under risk factor 13. The defendant appealed, challenging the assessment and arguing that he was entitled to a downward departure based on mitigating factors. The Appellate Division affirmed the order.

DISPOSITION

affirmed

CASES CITED

- People v. Padgett, 170 AD3d 1054, 1054
- People v. LeGrand, 152 AD3d 722, 722
- People v. Lawson, 90 AD3d 1006, 1007
- People v. Aguirre, 217 AD3d 784, 784

- People v. Titone, 209 AD3d 888, 889

OPINION

People v. Mazzio 2026 NY Slip Op 03461

PER CURIAM.

People v Mazzio - 2026 NY Slip Op 03461 skip to main content It appears you are using Adblock. Please disable Adblock to best experience our website. Law Reporting Bureau Thomas J.K. Smith, State Reporter Court Decisions Resources About Home All Court Decisions Decisions People v Mazzio 2026 NY Slip Op 03461 June 3, 2026 Appellate Division, Second Department Published by New York State Law Reporting Bureau pursuant to Judiciary Law § 431. This decision is uncorrected and subject to revision before publication in the Official Reports. The People of the State of New York, respondent, v Eugene Mazzio, appellant. Supreme Court of the State of New York, Appellate Division, Second Judicial Department Decided on June 3, 2026 2025-12809 Mark C. Dillon, J.P. Lillian Wan Lourdes M. Ventura Susan Quirk, JJ. Jeffrey D. Cohen, Kew Gardens, NY, for appellant. Melinda Katz, District Attorney, Kew Gardens, NY (Johnnette Traill and Nancy Fitzpatrick Talcott of counsel; Dallas S. Droz on the brief), for respondent. [*1] DECISION & ORDER Appeal by the defendant from an order of the Supreme Court, Queens County (Ira H. Margulis, J.), dated October 17, 2025, 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. Following a hearing pursuant to the Sex Offender Registration Act (SORA) (Correction Law art 6-C), the Supreme Court designated the defendant a level three sex offender. The defendant appeals. Contrary to the defendant's contention, the Supreme Court properly assessed the defendant 20 points on the risk assessment instrument under risk factor 13 for the defendant's unsatisfactory conduct with sexual misconduct while confined (see People v Padgett , 170 AD3d 1054 , 1054; People v LeGrand , 152 AD3d 722, 722 ; People v Lawson , 90 AD3d 1006, 1007). The defendant's contention that he is entitled to a downward departure based on purported mitigating factors is unpreserved for appellate review because he did not request a downward departure at the SORA hearing (see People v Aguirre , 217 AD3d 784 , 784; People v Titone , 209 AD3d 888, 889). In any event, the defendant failed to establish that a downward departure was warranted. DILLON, J.P., WAN, VENTURA and QUIRK, JJ., concur. ENTER: Darrell M. Joseph Clerk of the Court Court Decisions All Court Decisions Official Reports Service Bound Volumes Decision Search Resources RSS Feeds Style Manual Citation Tools Opinion Formatting & Privacy Guidelines Opinion Selection Criteria Legal Research Portal Site Index About About the Law Reporting Bureau About our Operations Contact Us Twitter Quick Contact Info 17 Lodge Street Albany, NY 12207 Phone: (518) 453-6900 Links to or from other sites do not signify endorsement or relationship with them.

