

**APPELLATE DIVISION OF THE SUPREME COURT OF THE STATE OF NEW
YORK, FIRST DEPARTMENT**

People v. Johnson

2026 NY Slip Op 00844 (1st Dep't 2026) · No. Ind. No. 4710/88; Appeal No. 5833; Case No. 2023-05813 ·
Decided February 17, 2026

SUMMARY

The Appellate Division, First Department, unanimously affirmed an order denying in part Derek Johnson's petition under Correction Law § 168-o(2) to modify his sex offender classification. The court upheld modification from risk level three to level two, concluding that the mitigating factors did not justify a further reduction to level one in light of the aggravating factors.

OPINION

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PER CURIAM.

People v Johnson (2026 NY Slip Op 00844) People v Johnson 2026 NY Slip Op 00844 Decided on February 17, 2026 Appellate Division, First Department Published by New York State Law Reporting Bureau pursuant to Judiciary Law § 431. This opinion is uncorrected and subject to revision before publication in the Official Reports. Decided and Entered: February 17, 2026 Before: Manzanet-Daniels, J.P., Kapnick, Pitt-Burke, Higgitt, Rosado, JJ. Ind. No. 4710/88|Appeal No. 5833|Case No. 2023-05813| [*1]The People of the State of New York, Respondent, v Derek Johnson, Defendant-Appellant. Jenay Nurse Guilford, Center for Appellate Litigation, New York (Adrienne Wells of counsel), for appellant. Darcel D. Clark, District Attorney, Bronx (Rafael Curbelo of counsel), for respondent. Order, Supreme Court, Bronx County (Raymond L. Bruce, J.), entered on or about October 5, 2023, which denied in part defendant's Correction Law § 168-o(2) petition to modify his sex offender classification, unanimously affirmed, without costs. Pursuant to defendant's Correction Law § 168-o(2) petition, the court modified defendant's risk level three classification to level two but denied a further modification to level one. Defendant has presented no basis for this Court to exercise its independent discretion to further reduce defendant's risk level to level one. The mitigating factors cited by defendant, including his age, lack of sexual offense convictions since 1988 and criminal convictions since 2009, and community support, when viewed in light of the aggravating factors, including the seriousness of defendant's underlying crime of rape at knifepoint, persistent denial that he needs sex offense treatment, conditional remorse, and lack of evidence documenting his sobriety, warrant only a modification to a risk level two adjudication (see People v Johnson , 124 AD3d 495, 496 [1st Dept 2015]; cf. People v Davis , 179 AD3d 183 , 187 [2d Dept 2019]). THIS CONSTITUTES

THE DECISION AND ORDER OF THE SUPREME COURT, APPELLATE DIVISION, FIRST
DEPARTMENT. ENTERED: February 17, 2026

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