

**Supreme Court of the State of New York**  
**Appellate Division, First Judicial Department**

Webber, J.P., Shulman, Higgitt, Rosado, Hagler, JJ.

5990

THE PEOPLE OF THE STATE OF NEW YORK,  
Respondent,

Ind. No. 71019/21  
Case No. 2023-01538

-against-

CLAYTON JOHNSON,  
Defendant-Appellant.

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Jenay Nurse Guilford, Center for Appellate Litigation, New York (Alec D. Miran of counsel), for appellant.

Alvin L. Bragg, Jr., District Attorney, New York (Amanda Katherine Regan of counsel), for respondent.

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Order, Supreme Court, New York County (Gregory Carro, J.), entered on or about July 26, 2023, which adjudicated defendant a level three predicate sex offender pursuant to the Sex Offender Registration Act (Correction Law art 6-C), unanimously affirmed, without costs.

The court providently exercised its discretion in declining to grant a downward departure to a level two predicate sex offender (*see generally People v Gillotti*, 23 NY3d 841, 861 [2014]) and we perceive no basis to substitute our discretion for that of the court. The mitigating factors presented by defendant are outweighed by his extensive criminal history, including a prior rape conviction, a prior forcible touching conviction, and numerous indecent exposure and assault convictions, all of which demonstrate his

“high risk of recidivism” (*People v Doctor*, 108 AD3d 413 [1st Dept 2013], *lv denied* 21 NY3d 866 [2013]).

THIS CONSTITUTES THE DECISION AND ORDER  
OF THE SUPREME COURT, APPELLATE DIVISION, FIRST DEPARTMENT.

ENTERED: March 3, 2026

A handwritten signature in black ink, appearing to read "Susanna Molina Rojas". The signature is fluid and cursive, with the first name being the most prominent.

Susanna Molina Rojas  
Clerk of the Court