

Supreme Court, Appellate Division, Second Department, New York.

In the Matter of Jonathan WEINSTEIN, appellant;  
People of the State of New York, respondent.

April 21, 2003.

Gerald B. Lefcourt, P.C., New York, N.Y. (Renato C. Stabile of counsel), for appellant.

\*773 Kevin L. Wright, District Attorney, Carmel, N.Y., for respondent.

In a proceeding pursuant to Correction Law article 6-C, the petitioner appeals from an order of the County Court, Putnam County (Rooney, J.), dated February 28, 2002, which designated him a level two sex offender.

ORDERED that the order is reversed, on the law, without costs or disbursements, and the petitioner is designated a level one sex offender.

The Supreme Court's determination designating the petitioner a level two sex offender is not supported by clear and convincing evidence in the record (*see* Correction Law §§ 168-l[6][b], 168-n[3]; *People v. Mallory*, 293 A.D.2d 881, 740 N.Y.S.2d 530). Rather, the evidence supports a level one designation (*see* Correction Law 168-l[6][a]).

The petitioner's remaining contentions are without merit or are not properly before this court.

RITTER, J.P., SMITH, KRAUSMAN and RIVERA, JJ., concur.

N.Y.A.D. 2 Dept. 2003.

In re Weinstein

304 A.D.2d 769, 757 N.Y.S.2d 772, 2003 N.Y. Slip Op. 13291

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