Supreme Court of the State of New York
Appellate Division: Second Judicial Department

D21793
W/prt

_____AD3d_____ Argued - December 16, 2008

REINALDO E. RIVERA, J.P.
FRED T. SANTUCCI
EDWARD D. CARNI
THOMAS A. DICKERSON, JJ.

2006-04813 DECISION & ORDER

The People, etc., respondent,
v Salih Sevencan, appellant.

(Ind. No. 12739/91)

Lynn W. L. Fahey, New York, N.Y. (Lisa Napoli of counsel), for appellant, and appellant pro se.

Charles J. Hynes, District Attorney, Brooklyn, N.Y. (Leonard Joblove and Phyllis Mintz of counsel), for respondent.

Appeal by the defendant from an order of the Supreme Court, Kings County (Guzman, J.), dated April 26, 2006, which, after a hearing, specified and informed him that the court would impose three determinate prison terms of 20 years, two to be served consecutively with each other and one to be served concurrently with the other two, and a period of postrelease supervision of 5 years, upon his conviction of criminal sale of a controlled substance in the first degree (three counts), in the event of a resentence pursuant to the Drug Law Reform Act of 2004 (L 2004, ch 738, § 23).

ORDERED that the order is affirmed, and the matter is remitted to the Supreme Court, Kings County, to afford the defendant an opportunity to withdraw his application for resentencing before any resentence is imposed.

The proposed resentence was not excessive (*see People v Gonzalez,* 53 AD3d 507; *People v Schreter,* 50 AD3d 930; *People v Love,* 46 AD3d 919, 921-922; *People v Suitte,* 90 AD2d 80).

The defendant's remaining contentions, including those raised in his supplemental pro se brief, are without merit.

Pursuant to the Drug Law Reform Act of 2004 (L 2004, ch 738, § 23), we remit this matter to the Supreme Court, Kings County, to afford the defendant an opportunity to withdraw his application for resentencing before any resentence is imposed.

RIVERA, J.P., SANTUCCI, CARNI and DICKERSON, JJ., concur.

ENTER:

James Edward Pelzer
Clerk of the Court