

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

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____AD3d____

Submitted - March 6, 2009

PETER B. SKELOS, J.P.
FRED T. SANTUCCI
THOMAS A. DICKERSON
RANDALL T. ENG, JJ.

2005-05355

DECISION & ORDER

The People, etc., respondent,
v Carlos Diaz, appellant.

(Ind. No. 2516-93)

Karl E. Bonheim, Riverhead, N.Y., for appellant.

Thomas J. Spota, District Attorney, Riverhead, N.Y. (Edward A. Bannan of counsel),
for respondent.

Appeal by the defendant from a resentencing of the County Court, Suffolk County (Crecca, J.), dated May 10, 2005, imposed after a hearing, upon his conviction of criminal sale of a controlled substance in the first degree (two counts) and criminal possession of a controlled substance in the first degree (two counts), pursuant to the Drug Law Reform Act of 2004 (L 2004, ch 738).

ORDERED that the appeal is dismissed.

Since the defendant has been deported, his appeal must be dismissed without prejudice to a motion to reinstate the appeal should the defendant return to this Court's jurisdiction (*see People v Diaz*, 7 NY3d 831, 832; *People v Henriquez*, 47 AD3d 457; *People v Sosa*, 46 AD3d 469; *People v Wilamowski*, 20 Misc 3d 134[A]).

SKELOS, J.P., SANTUCCI, DICKERSON and ENG, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court

April 7, 2009

PEOPLE v DIAZ, CARLOS