

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

D24052
O/kmg

_____AD3d_____

Submitted - April 24, 2009

A. GAIL PRUDENTI, P.J.
STEVEN W. FISHER
JOSEPH COVELLO
JOHN M. LEVENTHAL
LEONARD B. AUSTIN, JJ.

2008-08403

DECISION & ORDER

The People, etc., respondent,
v Johannes Gonzalez, appellant.

(Ind. No. 02-00957)

John R. Lewis, Sleepy Hollow, N.Y., for appellant.

Janet DiFiore, District Attorney, White Plains, N.Y. (Lois Cullen Valerio and Richard Longworth Hecht of counsel), for respondent.

Appeal by the defendant from a resentence of the County Court, Westchester County (Zambelli, J.), imposed August 14, 2008, pursuant to the Drug Law Reform Act of 2004 (L 2004, ch 738), imposed after a hearing, the resentence being a determinate term of imprisonment of 15 years and a period of postrelease supervision of 5 years, upon his conviction of criminal possession of a controlled substance in the first degree, upon a jury verdict.

ORDERED that the resentence is affirmed.

A determinate term of imprisonment of 15 years and a period of postrelease supervision of 5 years is not excessive under the circumstances of this case (*see People v Gonzalez*, 53 AD3d 507).

PRUDENTI, P.J., FISHER, COVELLO, LEVENTHAL and AUSTIN, JJ., concur.

July 28, 2009

Page 1.

PEOPLE v GONZALEZ, JOHANNES

2008-08403

DECISION & ORDER ON MOTION

The People, etc., respondent,
v Johannes Gonzalez, appellant.

(Ind. No. 02-00957)

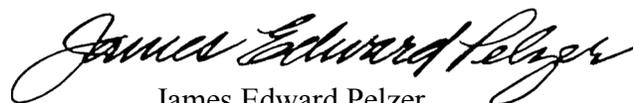
Motion by the respondent to dismiss an appeal from a resentence of the County Court, Westchester County, imposed August 14, 2008, pursuant to the Drug Law Reform Act of 2004 (L 2004, ch 738). By decision and order on motion of this Court dated December 12, 2008, the motion was held in abeyance and referred to the Justices hearing the appeal for determination upon the argument or submission thereof.

Upon the papers filed in support of the motion, and upon the submission of the appeal,
it is

ORDERED that the motion is denied.

PRUDENTI, P.J., FISHER, COVELLO, LEVENTHAL and AUSTIN, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court

July 28, 2009

PEOPLE v GONZALEZ, JOHANNES

Page 2.