

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

D26236
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_____AD3d_____

Submitted - January 19, 2010

PETER B. SKELOS, J.P.
JOSEPH COVELLO
RUTH C. BALKIN
LEONARD B. AUSTIN, JJ.

2008-06830

DECISION & ORDER

The People, etc., respondent,
v Harold Watkins, appellant.

(Ind. No. 1806-01)

Robert C. Mitchell, Riverhead, N.Y. (Alfred J. Cicale of counsel), for appellant.

Thomas J. Spota, District Attorney, Riverhead, N.Y. (Marcia R. Kucera of counsel),
for respondent.

Appeal by the defendant from a resentencing of the County Court, Suffolk County (Kahn, J.), rendered June 24, 2008, adding a five year period of postrelease supervision to his original sentence imposed by the same court (Farneti, J.), rendered March 27, 2002, upon his conviction of gang assault in the first degree and assault in the first degree (two counts).

ORDERED that the resentencing is affirmed.

Contrary to the defendant's contention, the resentencing court providently exercised its discretion in resentencing him without an updated pre-sentence investigation report, since he had been continually incarcerated between the time of initial sentencing and resentencing, and additional information was not necessary under the circumstances (*see People v Kuey*, 83 NY2d 278; *People v James*, 4 AD3d 774; *People v Costello*, 231 AD2d 446).

March 9, 2010

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The defendant's remaining contention that the resentence had to be imposed by the original sentencing court is without merit.

SKELOS, J.P., COVELLO, BALKIN and AUSTIN, JJ., concur.

ENTER:

A handwritten signature in black ink, reading "James Edward Pelzer". The signature is written in a cursive, flowing style.

James Edward Pelzer
Clerk of the Court