

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

D27281
C/ct

_____AD3d_____

Submitted - April 1, 2010

HOWARD MILLER, J.P.
JOHN M. LEVENTHAL
CHERYL E. CHAMBERS
PLUMMER E. LOTT, JJ.

2009-03385

DECISION & ORDER

The People, etc., respondent,
v Michael Godwin, appellant.

(Ind. No. 2715-98)

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

Thomas J. Spota, District Attorney, Riverhead, N.Y. (Thomas C. Costello of counsel), for respondent.

Appeal by the defendant from a resentencing of the County Court, Suffolk County (Kahn, J.), imposed March 12, 2009, which, upon his conviction of rape in the first degree (two counts), sexual abuse in the first degree (four counts), and endangering the welfare of a child, upon his plea of guilty, imposed a period of postrelease supervision of five years in addition to the determinate sentences of imprisonment of nine years for rape in the first degree, five years for sexual abuse in the first degree, and one year for endangering the welfare of a child imposed by the same court (Ohlig, J.), on October 12, 1999.

ORDERED that the resentencing is reversed, on the law, and the original sentence is reinstated.

As the People correctly concede, the imposition of a period of postrelease supervision on this defendant violated his rights under the Double Jeopardy Clauses of the United States and New York Constitutions (*see* US Const, 5th Amend, cl 2; NY Const, art I, § 6; *People v Williams*, 14

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NY3d 198). Accordingly, the resentence must be reversed, and the original sentence reinstated.

MILLER, J.P., LEVENTHAL, CHAMBERS and LOTT, JJ., concur.

ENTER:

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

James Edward Pelzer
Clerk of the Court