

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

D28079  
W/prt

\_\_\_\_\_AD3d\_\_\_\_\_

Submitted - June 14, 2010

PETER B. SKELOS, J.P.  
RANDALL T. ENG  
L. PRISCILLA HALL  
PLUMMER E. LOTT, JJ.

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2008-07752

DECISION & ORDER

The People, etc., respondent,  
v Arthur Pruitt, appellant.

(Ind. No. 2310/99)

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Joseph A. Hanshe, Sayville, N.Y., for appellant.

Kathleen M. Rice, District Attorney, Mineola, N.Y. (Tammy J. Smiley and Andrew Fukuda of counsel), for respondent.

Appeal by the defendant from a resentence of the County Court, Nassau County (Jaeger, J.), imposed August 6, 2008, which, upon his conviction of rape in the first degree and sexual abuse in the first degree, upon a jury verdict, imposed periods of postrelease supervision of five years in addition to the determinate terms of imprisonment previously imposed on March 14, 2001.

ORDERED that the resentence is affirmed.

The defendant was convicted, after a jury trial, of rape in the first degree and sexual abuse in the first degree. On March 14, 2001, he was sentenced to concurrent determinate terms of imprisonment of 18 years and 7 years, respectively. In 2008, while the defendant was still incarcerated and serving the original sentence, the defendant was brought before the County Court for resentencing, so that the mandatory periods of postrelease supervision could be imposed (*see* Penal Law § 70.45; Correction Law § 601-d).

Contrary to the defendant's contention, his constitutional right to due process was not violated by the resentencing (*see People v Sparber*, 10 NY3d 457, 469-472; *People v Mendez*, 73 AD3d 951; *People v Scalercio*, 71 AD3d 1060).

June 29, 2010

Page 1.

PEOPLE v PRUITT, ARTHUR

The defendant's contention that Correction Law § 601-d constitutes an unconstitutional ex post facto law is unpreserved for appellate review and, in any event, without merit (*cf. People v Williams*, 14 NY3d 198, 220 n 5).

The defendant's remaining contentions are without merit.

SKELOS, J.P., ENG, HALL and LOTT, 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