

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

D28386
O/kmg

_____AD3d_____

Submitted - September 8, 2010

MARK C. DILLON, J.P.
RUTH C. BALKIN
CHERYL E. CHAMBERS
SANDRA L. SGROI, JJ.

2008-08607

DECISION & ORDER

The People, etc., respondent,
v Edmundo Mejia, appellant.

(Ind. No. 310/99)

Lynn W. L. Fahey, New York, N.Y. (Sarah J. Berger of counsel), for appellant.

Richard A. Brown, District Attorney, Kew Gardens, N.Y. (John M. Castellano and William H. Branigan of counsel), for respondent.

Appeal by the defendant from a resentence of the Supreme Court, Queens County (Knopf, J.), imposed September 15, 2008, which, upon his conviction of robbery in the first degree (two counts) and robbery in the second degree, after a nonjury trial (Rotker, J.), imposed a period of postrelease supervision in addition to the determinate sentence of imprisonment previously imposed on September 19, 2000.

ORDERED that the resentence is reversed, on the law, the period of postrelease supervision is vacated, and the original sentence imposed on September 19, 2000, is reinstated.

As the People correctly concede, the imposition of a period of postrelease supervision upon this defendant violated his rights under the Double Jeopardy Clause of the United States Constitution (*see* US Const Fifth Amend; *People v Williams*, 14 NY3d 198; *People v Marquez*, 73 AD3d 1212). Accordingly, the resentence must be reversed, the period of postrelease supervision vacated, and the original sentence reinstated.

DILLON, J.P., BALKIN, CHAMBERS and SGROI, JJ., concur.

ENTER:


Matthew G. Kiernan

September 21, 2010

PEOPLE v MEJIA, EDMUNDO

Clerk of the Court

September 21, 2010

PEOPLE v MEJIA, EDMUNDO