

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

D28497
H/ct

_____AD3d_____

Submitted - September 16, 2010

MARK C. DILLON, J.P.
ANITA R. FLORIO
SHERI S. ROMAN
SANDRA L. SGROI, JJ.

2009-01939

DECISION & ORDER

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

(Ind. No. 26/00)

Lynn W. L. Fahey, New York, N.Y. (Paul Skip Laisure of counsel), for appellant.

Daniel M. Donovan, Jr., District Attorney, Staten Island, N.Y. (Morrie I. Kleinbart and Anne Grady of counsel), for respondent.

Appeal by the defendant from a resentence of the Supreme Court, Richmond County (Rooney, J.), imposed February 3, 2009, which, upon his conviction of robbery in the first degree, upon a jury verdict, imposed a period of postrelease supervision of five years in addition to the determinate term of imprisonment previously imposed on September 28, 2000.

ORDERED that the resentence is affirmed.

After a defendant is released from prison, a legitimate expectation in the finality of the sentence arises (*see People v Williams*, 14 NY3d 198, 217), and the Double Jeopardy Clause of the United States Constitution (*see US Const*, 5th Amend) precludes a court from adding a period of postrelease supervision to the sentence (*see People v Jordan*, 15 NY3d 727; *People v Grant*, 75 AD3d 558). Here, since the defendant had not yet completed serving the 18-year prison term to which he was sentenced in 2000, the 2009 resentencing did not violate the defendant's Double Jeopardy or Due Process rights (*see People v Jordan*, 15 NY3d 727; *People v Hassell*, 14 NY3d 925; *People v Williams*, 14 NY3d 198; *People v Sparber*, 10 NY3d 457; *People v Pruitt*, 74 AD3d

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1366; *People v Mendez*, 73 AD3d 951; *People v Parisi*, 72 AD3d 989; *People v Scalercio*, 71 AD3d 1060; *People v Prendergast*, 71 AD3d 1055; *People v Bowman*, 65 AD3d 636; *People v Stewartson*, 63 AD3d 966).

The defendant's remaining contention is without merit.

DILLON, J.P., FLORIO, ROMAN and SGROI, JJ., concur.

ENTER:

A handwritten signature in black ink that reads "Matthew G. Kiernan". The signature is written in a cursive, slightly slanted style.

Matthew G. Kiernan
Clerk of the Court