

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

D28639
C/hu

_____AD3d_____

Submitted - October 1, 2010

PETER B. SKELOS, J.P.
RANDALL T. ENG
ARIEL E. BELEN
L. PRISCILLA HALL, JJ.

2009-06025

DECISION & ORDER

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

(Ind. No. 6404/00)

Lynn W. L. Fahey, New York, N.Y. (Rachel Altstein of counsel), for appellant.

Charles J. Hynes, District Attorney, Brooklyn, N.Y. (Leonard Joblove and Morgan J. Dennehy of counsel), for respondent.

Appeal by the defendant from a resentence of the Supreme Court, Kings County (DiMango, J.), imposed June 15, 2009, which, upon his conviction of criminal possession of a weapon in the second degree, criminal possession of a weapon in the third degree, and menacing in the second degree, imposed a period of postrelease supervision of 4 years in addition to the previously imposed determinate prison sentence of 10 years on the conviction of criminal possession of a weapon in the second degree.

ORDERED that the resentence is affirmed.

The defendant was convicted, after a jury trial, of criminal possession of a weapon in the second degree, criminal possession of a weapon in the third degree, and menacing in the second degree. On June 6, 2001, he was sentenced to concurrent determinate terms of imprisonment of 10 years, 7 years, and 1 year, respectively. In 2009, while the defendant was still incarcerated and serving the original sentence, he was brought before the Supreme Court for resentencing, so that the mandatory period of postrelease supervision could be imposed (*see* Penal Law § 70.45; Correction Law § 601-d).

October 19, 2010

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Contrary to the defendant's contention, the resentencing did not subject him to double jeopardy (see *People v Mendez*, 73 AD3d 951; *People v Murrell*, 73 AD3d 598; *People v Parisi*, 72 AD3d 989; cf. *People v Williams*, 14 NY3d 198, cert denied _____US_____, 2010 WL 2070229). Nor did the resentencing violate the defendant's constitutional right to due process (see *People v Mendez*, 73 AD3d 951; *People v Parisi*, 72 AD3d 989; *People v Scalercio*, 71 AD3d 1060; cf. *People v Williams*, 14 NY3d 198).

The defendant's remaining contention is without merit.

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