

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

D29563
C/hu

_____AD3d_____

Argued - December 9, 2010

A. GAIL PRUDENTI, P.J.
ANITA R. FLORIO
RUTH C. BALKIN
JOHN M. LEVENTHAL, JJ.

2010-02846

DECISION & ORDER

The People, etc., respondent,
v Mark Fields, appellant.

(Ind. No. 98-01551)

Briccetti, Calhoun & Lawrence, LLP, White Plains, N.Y. (Clinton W. Calhoun III of counsel), for appellant.

Janet DiFiore, District Attorney, White Plains, N.Y. (Steven A. Bender and Richard Longworth Hecht of counsel), for respondent.

Appeal by the defendant from a resentence of the County Court, Westchester County (Capeci, J.), imposed March 3, 2010, which, upon his conviction of burglary in the second degree, upon his plea of guilty, imposed a period of postrelease supervision in addition to the determinate term of imprisonment previously imposed on November 4, 1999.

ORDERED that the resentence is affirmed.

On this appeal from a resentence, the defendant claims that his underlying plea was invalid and should be vacated. That claim may not be raised on this appeal from the resentence only (*see* CPL 450.30[3]; *People v Ferrufino*, 33 AD3d 623; *People v Luddington*, 5 AD3d 1042, 1042-1043; *People v Jordan*, 65 AD3d 428, 429, *lv granted* 13 NY3d 908; *People v DeSpirito*, 27 AD3d 479).

The resentence imposed was not excessive (*see People v Suitte*, 90 AD2d 80).

December 28, 2010

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The defendant's remaining contentions are without merit (*see People v Young*, 78 AD3d 744; *People v Allen*, 66 AD3d 792, 793; *People v Bowman*, 65 AD3d 636; *People v Edwards*, 62 AD3d 467, 468).

PRUDENTI, P.J., FLORIO, BALKIN and LEVENTHAL, 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