

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

D30324  
W/kmb

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

Submitted - February 1, 2011

MARK C. DILLON, J.P.  
THOMAS A. DICKERSON  
L. PRISCILLA HALL  
SHERI S. ROMAN, JJ.

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2009-03044

DECISION & ORDER

The People, etc., respondent,  
v Lillian George, appellant.

(Ind. No. 1472/00)

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Steven Banks, New York, N.Y. (Richard Joselson of counsel), for appellant.

Charles J. Hynes, District Attorney, Brooklyn, N.Y. (Leonard Joblove and Morgan J. Dennehy of counsel; Tamara De Moor on the brief), for respondent.

Appeal by the defendant from a resentencing of the Supreme Court, Kings County (Brennan, J.), imposed March 4, 2009, which, upon her conviction of assault in the first degree, after a jury trial, imposed a period of postrelease supervision in addition to the determinate term of imprisonment previously imposed on December 20, 2000.

ORDERED that the resentencing is affirmed.

The defendant was convicted, after a jury trial, of assault in the first degree in connection with a January 1, 2000, stabbing incident. On December 20, 2000, she was sentenced to a determinate prison term of 10 years, but the sentencing court did not pronounce the required 5-year period of postrelease supervision, and the original sentence and commitment sheet does not contain any reference to postrelease supervision. On March 4, 2009, after the defendant served approximately 8½ years of her prison term, and only three weeks before she was to be conditionally released from prison, the sentencing court vacated the original sentence and resentedenced her to the same 10-year determinate prison term, to be followed by a period of 5 years of postrelease supervision.

Since the defendant had not yet been released from incarceration for the crime in

March 8, 2011

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question when she was resentenced, her resentencing to a term including the statutorily required period of postrelease supervision did not subject her to double jeopardy or violate her right to due process of law (see *People v Negron*, 78 AD3d 1079, 1079-1080; *People v Mislá*, 78 AD3d 735; *People v Ragbirsingh*, 78 AD3d 738; *People v Ware*, 78 AD3d 743, 744; *People v Pruitt*, 74 AD3d 1366, 1367; *People v Tillman*, 74 AD3d 1251; *People v Mendez*, 73 AD3d 951; *People v Murrell*, 73 AD3d 598, *lv granted* 15 NY3d 854; *People v Parisi*, 72 AD3d 989, *lv granted* 15 NY3d 776; *People v Becker*, 72 AD3d 1290, 1291; *People v Scalercio*, 71 AD3d 1060; *People v Prendergast*, 71 AD3d 1055, *lv granted* 15 NY3d 808; *cf. People v Jordan*, 15 NY3d 727, 728; *People v Williams*, 14 NY3d 198, *cert denied* \_\_\_\_\_ US \_\_\_\_\_, 131 S Ct 125).

DILLON, J.P., DICKERSON, HALL and ROMAN, JJ., concur.

ENTER:

  
Matthew G. Kiernan  
Clerk of the Court