

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

D30763
C/kmb

_____AD3d_____

Submitted - March 23, 2011

REINALDO E. RIVERA, J.P.
ANITA R. FLORIO
THOMAS A. DICKERSON
L. PRISCILLA HALL
SHERI S. ROMAN, JJ.

2010-03444

DECISION & ORDER

The People, etc., respondent,
v Jesse R. Benoit, appellant.

(Ind. No. 5/05)

Michael G. Paul, New City, N.Y., for appellant.

William V. Grady, District Attorney, Poughkeepsie, N.Y. (Joan H. McCarthy of counsel), for respondent.

Appeal by the defendant from a resentence of the County Court, Dutchess County (Hayes, J.), imposed March 16, 2010, which, upon his conviction of assault in the first degree, upon his plea of guilty, imposed a period of postrelease supervision in addition to the determinate term of imprisonment previously imposed on March 28, 2005.

ORDERED that the resentence is affirmed.

The defendant's contentions that his underlying plea was not knowing, voluntary, and intelligent, that he was denied the effective assistance of counsel prior to trial and at the plea, and that the original sentence was excessive may not be raised on this appeal from the resentence only (*see* CPL 450.30[3]; *People v Fields*, 79 AD3d 1147, 1147-1148; *People v Jordan*, 65 AD3d 428, 428-429; *People v Ferrufino*, 33 AD3d 623; *People v DeSpirito*, 27 AD3d 479, 479-480).

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

RIVERA, J.P., FLORIO, DICKERSON, HALL and ROMAN, JJ., concur.

ENTER: 
Matthew G. Kiernan

April 5, 2011

PEOPLE v BENOIT, JESSE R.

Clerk of the Court

April 5, 2011

PEOPLE v BENOIT, JESSE R.