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

D30919
C/kmb

_____AD3d_____ Submitted - March 31, 2011

PETER B. SKELOS, J.P.
ARIEL E. BELEN
PLUMMER E. LOTT
JEFFREY A. COHEN, JJ.

2009-00432 DECISION & ORDER

The People, etc., respondent,
v Brandon Lee Elmendorf, appellant.

(S.C.I. No. 110/03)

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

William V. Grady, District Attorney, Poughkeepsie, N.Y. (Bridget Rahilly Steller of counsel), for respondent.

Appeal by the defendant from a resentence of the County Court, Dutchess County (Hayes, J.), imposed December 22, 2008, which, upon his conviction of assault in the second degree, upon his plea of guilty, imposed a term of postrelease supervision in addition to the determinate term of imprisonment previously imposed on September 24, 2003.

ORDERED that the appeal is dismissed as academic.

The sole issue presented on appeal is the defendant's challenge to the legality of the term of postrelease supervision the County Court imposed at resentencing, pursuant to Correction Law § 601-d, after he had been released from prison upon completing his determinate term of imprisonment (*see People v Williams*, 14 NY3d 198, *cert denied* _____US_____, 131 S Ct 125). The record indicates that the challenged term of postrelease supervision has expired. Accordingly, the appeal must be dismissed as academic (*see People v Garner*, _____AD3d_____ 2011 NY Slip Op 03083 [2d Dept 2011]; *cf. Matter of Johnson v Pataki*, 91 NY2d 214, 222; *Matter of Hearst*

Corp. v Clyne, 50 NY2d 707, 714; *People v John*, 288 AD2d 848, 849; *People v Rodriguez*, 269 AD2d 613; *People v Young*, 253 AD2d 676; *People v Hults*, 231 AD2d 836; *People v Hernandez*, 166 AD2d 609; *People v Dukes*, 156 AD2d 959).

SKELOS, J.P., BELEN, LOTT and COHEN, JJ., concur.

ENTER:

Matthew G. Kiernan
Clerk of the Court