

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

D31202
O/kmb

_____AD3d_____

Submitted - April 25, 2011

MARK C. DILLON, J.P.
RUTH C. BALKIN
JOHN M. LEVENTHAL
L. PRISCILLA HALL, JJ.

2010-05845

DECISION & ORDER

The People, etc., respondent,
v Cornel Hoffman, appellant.

(Ind. No. 3261/01)

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

Richard A. Brown, District Attorney, Kew Gardens, N.Y. (John M. Castellano and William H. Branigan of counsel), for respondent.

Appeal by the defendant from a resentence of the Supreme Court, Queens County (Kron, J.), imposed May 26, 2010, which, upon his conviction of robbery in the first degree (two counts), robbery in the second degree (three counts), and criminal possession of a weapon in the fourth degree, upon a jury verdict, imposed a period of postrelease supervision in addition to the determinate term of imprisonment previously imposed on June 25, 2002.

ORDERED that the resentence is affirmed.

Since the defendant had not yet completed his originally-imposed sentence of imprisonment when he was resentenced, the resentencing to a term including the statutorily required period of postrelease supervision did not subject him to double jeopardy or violate his right to due process of law (*see People v Lingle*, _____ NY3d _____, 2011 NY Slip Op 03308 [2011]).

A court to which a matter has been remitted for resentencing solely for the purpose of imposing a required term of postrelease supervision does not have the authority to consider whether to reduce the defendant's sentence as a whole (*id.*).

May 10, 2011

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The defendant's remaining contention is without merit.

DILLON, J.P., BALKIN, LEVENTHAL and HALL, JJ., concur.

ENTER:


Matthew G. Kiernan
Clerk of the Court