

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

D31220  
W/kmb

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

Submitted - April 21, 2011

A. GAIL PRUDENTI, P.J.  
DANIEL D. ANGIOLILLO  
THOMAS A. DICKERSON  
SHERI S. ROMAN, JJ.

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2010-03775

DECISION & ORDER

The People, etc., respondent,  
v Juan Ureña, appellant.

(Ind. No. 4407/96)

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

Charles J. Hynes, District Attorney, Brooklyn, N.Y. (Leonard Joblove and Diane R. Eisner of counsel), for respondent.

Appeal by the defendant from a resentence of the Supreme Court, Kings County (Brennan, J.), imposed March 26, 2010, pursuant to CPL 440.46, upon his conviction of criminal sale of a controlled substance in the third degree, which sentence was originally imposed, upon a jury verdict, on June 25, 1997.

ORDERED that the resentence is affirmed.

The Supreme Court providently exercised its discretion in resentencing the defendant to a determinate term of imprisonment of five years, with two years of postrelease supervision (*see People v Tutt*, 82 AD3d 1273; *People v Newton*, 48 AD3d 115, 119-120). Under the circumstances of this case, the resentence imposed was not excessive (*see People v Tutt*, 82 AD3d 1273; *People v Almanzar*, 43 AD3d 825, 826; *People v Suitte*, 90 AD2d 80, 85).

PRUDENTI, P.J., ANGIOLILLO, DICKERSON and ROMAN, JJ., concur.

ENTER:

  
Matthew G. Kiernan  
Clerk of the Court

May 10, 2011

PEOPLE v UREÑA, JUAN