

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

D31293
W/hu

_____AD3d_____

Submitted - April 26, 2011

JOSEPH COVELLO, J.P.
RANDALL T. ENG
CHERYL E. CHAMBERS
ROBERT J. MILLER, JJ.

2010-02154

DECISION & ORDER

The People, etc., respondent,
v Danny Ortiz, appellant.

(Ind. No. 2840/02)

Lynn W. L. Fahey, New York, N.Y. (Bonnie H. Stein of counsel), for appellant.

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

Appeal by the defendant from a resentence of the Supreme Court, Kings County (Marrus, J.), imposed February 25, 2010, pursuant to CPL 440.46, after a hearing, upon his conviction of criminal sale of a controlled substance in the third degree, which sentence was originally imposed, upon his plea of guilty, on November 26, 2002.

ORDERED that the resentence is affirmed.

Taking into account all of the relevant circumstances, the resentence imposed was not excessive (*see People v Benzeno*, _____AD3d_____, 2011 NY Slip Op 02893 [2d Dept 2011]; *People v Graves*, 66 AD3d 1513, 1514; *People v Lara*, 61 AD3d 894; *People v Almanzar*, 43 AD3d 825, 826; *see also People v Suitte*, 90 AD2d 80).

COVELLO, J.P., ENG, CHAMBERS and MILLER, JJ., concur.

ENTER:



Matthew G. Kiernan
Clerk of the Court

May 17, 2011

PEOPLE v ORTIZ, DANNY