

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

D32813
G/kmb

_____AD3d_____

Submitted - October 24, 2011

PETER B. SKELOS, J.P.
RUTH C. BALKIN
JOHN M. LEVENTHAL
PLUMMER E. LOTT, JJ.

2010-07129

DECISION & ORDER

The People, etc., respondent,
v Angel Algarin, appellant.

(Ind. No. 3046/01)

Lynn W. L. Fahey, New York, N.Y. (Paul Skip Laisure of counsel), for appellant.

Richard A. Brown, District Attorney, Kew Gardens, N.Y. (John M. Castellano, Johnnette Traill, and Gretchen Robinson of counsel), for respondent.

Appeal by the defendant from a resentence of the Supreme Court, Queens County (Kron, J.), imposed July 14, 2010, which, upon his convictions of robbery in the first degree (two counts), robbery in the second degree, criminal possession of a weapon in the second degree, and criminal possession of a weapon in the third degree, imposed periods of postrelease supervision in addition to the determinate terms of imprisonment previously imposed on August 13, 2002.

ORDERED that the resentence is affirmed.

Inasmuch as the defendant had not yet completed serving his originally imposed sentences of imprisonment when he was resentenced, his resentencing to a term including the statutorily required periods of postrelease supervision did not violate the double jeopardy and due process clauses of the United States Constitution (*see People v Lingle*, 16 NY3d 621, 630-632; *People v Harris*, 86 AD3d 543, 543-544, *lv denied* 17 NY3d 859; *People v Burgos*, 84 AD3d 975).

SKELOS, J.P., BALKIN, LEVENTHAL and LOTT, JJ., concur.

ENTER: 
Matthew G. Kiernan
Clerk of the Court

November 9, 2011

PEOPLE v ALGARIN, ANGEL