

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

D32815
H/kmb

____AD3d____

Submitted - October 24, 2011

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

2010-09575

DECISION & ORDER

The People, etc., respondent,
v Dwayne Harris, appellant.

(Ind. No. 8393/00)

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 Jodi L. Mandel of counsel; Benjamin Barczewski on the brief), for respondent.

Appeal by the defendant from a resentence of the Supreme Court, Kings County (Dowling, J.), imposed September 20, 2010, which, upon his conviction of criminal possession of a weapon in the second degree, imposed a period of postrelease supervision in addition to the determinate term of imprisonment previously imposed on August 20, 2001.

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*, 16 NY3d 621; *People v Dawkins*, 87 AD3d 550; *People v Harris*, 86 AD3d 543, *lv denied* 17 NY3d 859; *People v Adams*, 85 AD3d 1192, *lv denied* 17 NY3d 857; *People v Guillen*, 85 AD3d 1201, *lv denied* 17 NY3d 859; *People v Lopez*, 85 AD3d 1059).

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

ENTER:


Matthew G. Kiernan
Clerk of the Court

November 9, 2011

PEOPLE v HARRIS, DWAYNE