

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

D33677  
Y/ct

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

Submitted - January 4, 2012

MARK C. DILLON, J.P.  
RUTH C. BALKIN  
ARIEL E. BELEN  
LEONARD B. AUSTIN, JJ.

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2010-09644

DECISION & ORDER

The People, etc., respondent,  
v Damon Warren, appellant.

(Ind. No. 159/02)

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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 and Jodi L. Mandel of counsel; Gamaliel Marrero on the brief), for respondent.

Appeal by the defendant from a resentencing of the Supreme Court, Kings County (Brennan, J.), imposed February 19, 2010, which, upon his conviction of assault in the first degree, criminal possession of a weapon in the second degree (two counts), and criminal possession of a weapon in the third degree, upon his plea of guilty, imposed a period of postrelease supervision of five years on the conviction of assault in the first degree and the convictions of criminal possession of a weapon in the second degree, and a period of postrelease supervision of three years on the conviction of criminal possession of a weapon in the third degree, in addition to the determinate terms of imprisonment previously imposed.

ORDERED that the resentencing is affirmed.

Since the defendant had not yet completed the previously imposed terms of imprisonment when he was resentenced, the resentencing to a mandatory 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 Myrick*, 84 AD3d 1272).

Furthermore, this Court is without authority to reconsider the incarceratory component of the sentence on this appeal (*see People v Lingle*, 16 NY3d at 635; *People v Edwards*,

89 AD3d 1034; *People v Myrick*, 84 AD3d 1272).

DILLON, J.P., BALKIN, BELEN and AUSTIN, JJ., concur.

ENTER:

A handwritten signature in black ink that reads "Aprilanne Agostino". The signature is written in a cursive, flowing style.

Aprilanne Agostino  
Clerk of the Court