

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

D34048
H/prt

_____AD3d_____

Submitted - February 2, 2012

PETER B. SKELOS, J.P.
THOMAS A. DICKERSON
ARIEL E. BELEN
ROBERT J. MILLER, JJ.

2009-06178

DECISION & ORDER

The People, etc., respondent,
v Dion A. John, appellant.

(Ind. No. 845/04)

Steven Banks, New York, N.Y. (Laura Lieberman Cohen 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 (Buchter, J.), imposed June 3, 2009, which, upon his conviction of attempted robbery in the first degree and attempted robbery in the second degree, upon a jury verdict, imposed a period of postrelease supervision of two and one-half years in addition to the determinate terms of imprisonment previously imposed on March 3, 2005.

ORDERED that the resentence is affirmed.

Since the defendant had not yet completed serving his originally imposed sentence 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 Warren*, 91 AD3d 800; *People v Ralph*, 91 AD3d 796; *People v Mills*, 90 AD3d 1076; *People v Louis*, 90 AD3d 1075; *People v Edwards*, 89 AD3d 1034; *People v Douglas*, 89 AD3d 959; *People v Dawkins*, 87 AD3d 550; *People v Guillen*, 85 AD3d

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1201; *People v Lopez*, 85 AD3d 1059; *People v Myrick*, 84 AD3d 1272).

SKELOS, J.P., DICKERSON, BELEN and MILLER, JJ., concur.

ENTER:


Aprilanne Agostino
Clerk of the Court