

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

D34166
N/ct

_____AD3d_____

Submitted - February 15, 2012

REINALDO E. RIVERA, J.P.
RANDALL T. ENG
CHERYL E. CHAMBERS
SANDRA L. SGROI
ROBERT J. MILLER, JJ.

2011-03253

DECISION & ORDER

The People, etc., respondent,
v Terrie D. Pemberton, appellant.

(Ind. No. 5866/00)

Lynn W. L. Fahey, New York, N.Y. (Kathleen Whooley of counsel), for appellant.

Charles J. Hynes, District Attorney, Brooklyn, N.Y. (Leonard Joblove and Jodi L. Mandel of counsel), for respondent.

Appeal by the defendant from a resentencing of the Supreme Court, Kings County (Tomei, J.), imposed March 21, 2011, which, upon his conviction of sodomy in the first degree, imposed a period of postrelease supervision in addition to the determinate term of imprisonment previously imposed on August 21, 2001.

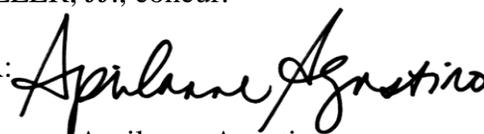
ORDERED that the resentencing is affirmed.

Inasmuch as the defendant had not yet completed serving his originally imposed sentence of imprisonment when he was resentenced, his resentencing to a term including the statutorily required period 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 Ralph*, 91 AD3d 796; *People v Algarin*, 89 AD3d 859).

The defendant's remaining contentions are without merit.

RIVERA, J.P., ENG, CHAMBERS, SGROI and MILLER, JJ., concur.

ENTER:



Aprilanne Agostino
Clerk of the Court

March 6, 2012

PEOPLE v PEMBERTON, TERRIE D.