

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

D34951
C/ct

_____AD3d_____

Submitted - June 13, 2011

WILLIAM F. MASTRO, A.P.J.
ARIEL E. BELEN
SANDRA L. SGROI
ROBERT J. MILLER, JJ.

2010-06091

DECISION & ORDER

The People, etc., respondent,
v Ronald Ashton, appellant.

(Ind. No. 7758/03)

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

Charles J. Hynes, District Attorney, Brooklyn, N.Y. (Leonard Joblove, Caroline R. Donhauser, and Terrence F. Heller of counsel), for respondent.

Appeal by the defendant from an order of the Supreme Court, Kings County (Guzman, J.), entered June 21, 2010, which denied his motion to be resentenced pursuant to CPL 440.46 on his conviction of criminal sale of a controlled substance in the third degree, which sentence was originally imposed, upon his plea of guilty, on September 9, 2004.

ORDERED that the order is reversed, on the law, and the matter is remitted to the Supreme Court, Kings County, for further proceedings pursuant to CPL 440.46.

The defendant correctly contends that, contrary to the determination of the Supreme Court, his status as a reincarcerated parole violator did not render him ineligible to apply for resentencing pursuant to the Drug Law Reform Act of 2009, codified in CPL 440.46 (*see People v Paulin*, 17 NY3d 238, 241-242; *People v Cobb*, 90 AD3d 779; *People v Vidal*, 87 AD3d 1085; *People v Santiago*, 87 AD3d 1077; *People v Howard*, 85 AD3d 1202, 1202-1203). Accordingly, the order appealed from must be reversed, and the matter remitted to the Supreme Court, Kings County,

May 15, 2012

Page 1.

PEOPLE v ASHTON, RONALD

for further proceedings pursuant to CPL 440.46.

MASTRO, A.P.J., BELEN, SGROI and MILLER, 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