

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

D35137
W/kmb

_____AD3d_____

Submitted - April 12, 2012

REINALDO E. RIVERA, J.P.
CHERYL E. CHAMBERS
SHERI S. ROMAN
ROBERT J. MILLER, JJ.

2010-11405

DECISION & ORDER

The People, etc., respondent,
v Robbie Dolberry, appellant.

(Ind. No. 5668/00)

Lynn W. L. Fahey, New York, N.Y. (Melissa S. Horlick of counsel), for appellant.

Charles J. Hynes, District Attorney, Brooklyn, N.Y. (Leonard Joblove, Jodi L. Mandel, and Marie-Claude P. Wrenn-Myers of counsel), for respondent.

Appeal by the defendant from a resentence of the Supreme Court, Kings County (D’Emic, J.), imposed October 13, 2010, which, upon his conviction of arson in the second degree, upon a jury verdict, imposed a period of postrelease supervision in addition to the determinate term of imprisonment previously imposed on January 2, 2002.

ORDERED that the resentence is affirmed.

Contrary to the defendant’s contention, his resentencing to a term which included the statutorily required period of postrelease supervision did not subject him to double jeopardy or violate his right to due process of law, since, at the time he was resentenced, he had not yet completed the sentence of imprisonment originally imposed upon him (*see People v Lingle*, 16 NY3d 621, 630, 632; *People v Louis*, 90 AD3d 1075; *People v Mills*, 90 AD3d 1076; *People v Dawkins*, 87 AD3d 550; *People v Harris*, 86 AD3d 543, 543-544).

The defendant’s remaining contention is without merit (*see People v Lingle*, 16 NY3d

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PEOPLE v DOLBERRY, ROBBIE

at 635; *People v Edwards*, 89 AD3d 1034, 1035).

RIVERA, J.P., CHAMBERS, ROMAN and MILLER, JJ., concur.

ENTER:


Aprilanne Agostino
Clerk of the Court