

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

D35525
G/kmb

____AD3d____

Submitted - June 1, 2012

ANITA R. FLORIO, J.P.
RUTH C. BALKIN
L. PRISCILLA HALL
ROBERT J. MILLER, JJ.

2010-00916

DECISION & ORDER

The People, etc., respondent,
v Jack Hsu, appellant.

(Ind. No. 57/01)

Del Atwell, East Hampton, N.Y., for appellant.

Appeal by the defendant from a resentencing of the County Court, Dutchess County (Hayes, J.), imposed December 22, 2009, which, upon his conviction of criminal possession of a weapon in the second degree and stalking in the second degree, upon his plea of guilty, imposed a period of postrelease supervision in addition to the determinate term of imprisonment previously imposed on December 12, 2001.

ORDERED that the resentencing is affirmed.

Since the defendant had not yet completed serving his originally imposed determinate sentence of imprisonment when he was resentenced, his resentencing to a term including the statutorily required period of postrelease supervision in addition to the determinate term of imprisonment previously imposed did not subject him to double jeopardy (*see People v Lingle*, 16 NY3d 621, 630-632; *People v Jones*, 94 AD3d 1146; *People v Battle*, 94 AD3d 1014).

The defendant's remaining contention is without merit.

FLORIO, J.P., BALKIN, HALL and MILLER, JJ., concur.

ENTER:


Aprilanne Agostino
Clerk of the Court

July 5, 2012

PEOPLE v HSU, JACK