

**SUPREME COURT OF THE STATE OF NEW YORK**  
***Appellate Division, Fourth Judicial Department***

1209

KA 06-01052

PRESENT: SMITH, J.P., FAHEY, CARNI, PINE, AND GORSKI, JJ.

---

THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

DAVID HILL, DEFENDANT-APPELLANT.

---

TIMOTHY P. DONAHER, PUBLIC DEFENDER, ROCHESTER (DAVID M. ABBATOY, JR., OF COUNSEL), FOR DEFENDANT-APPELLANT.

MICHAEL C. GREEN, DISTRICT ATTORNEY, ROCHESTER (NICOLE M. FANTIGROSSI OF COUNSEL), FOR RESPONDENT.

---

Appeal from a judgment of the Monroe County Court (John R. Schwartz, A.J.), rendered February 27, 2006. The judgment convicted defendant, upon his plea of guilty, of robbery in the second degree.

It is hereby ORDERED that the judgment so appealed from is unanimously affirmed.

Memorandum: Defendant appeals from a judgment convicting him, upon his plea of guilty, of robbery in the second degree (Penal Law § 160.10 [1]). We reject defendant's contention that County Court failed to apprehend the extent of its discretion in imposing a period of postrelease supervision. " 'The court's statement . . . with respect to the imposition of a five-year period of postrelease supervision does not, without more, indicate that the court erroneously believed that it lacked discretion to impose a shorter period' " (*People v Burgess*, 23 AD3d 1095, lv denied 6 NY3d 810). We also reject defendant's contention that the period of postrelease supervision imposed was unduly harsh or severe. "Defendant was sentenced in accordance with the plea bargain and should be bound by its terms" (*People v McGovern*, 265 AD2d 881, lv denied 94 NY2d 882).

Entered: October 2, 2009

Patricia L. Morgan  
Clerk of the Court