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This memorandum is uncorrected and subject to revision before  
publication in the New York Reports.  
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No. 56 SSM 34  
The People &c.,  
Respondent,  
v.  
Marche Johnson,  
Appellant.

Submitted by Adam H. Van Buskirk, for appellant.  
Submitted by Christopher T. Valdina, for respondent.

MEMORANDUM:

The order of the Appellate Division should be affirmed.

The Appellate Division correctly held that the  
resentencing court's error in allowing defendant to proceed pro  
se was harmless in these narrow circumstances, where the

proceeding involved a single question of law and standby counsel argued that issue on defendant's behalf (see People v Wardlaw, 6 NY3d 556, 559 [2006]; People v Adams, 52 AD3d 243, 243-244 [1st Dept 2008]).

Defendant's argument that the People were not entitled to withdraw their consent to a resentence without a period of post-release supervision (PRS) should be rejected (see Penal Law § 70.85). After the consent was given, defendant requested an adjournment and the court informed him that it was holding its resentencing decision "in abeyance". The People were under no continuing obligation to consent to a resentence that did not include PRS. When the People withdrew their consent, the resentencing court was compelled to impose PRS in accordance with Penal Law § 70.45 (see People v Sparber (10 NY3d 457, 471-472 [2008])).

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On review of submissions pursuant to section 500.11 of the Rules, order affirmed, in a memorandum. Chief Judge Lippman and Judges Graffeo, Read, Smith and Pigott concur.

Decided January 8, 2013