

State of New York  
Supreme Court, Appellate Division  
Third Judicial Department

Decided and Entered: May 10, 2012

104052

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THE PEOPLE OF THE STATE OF  
NEW YORK,

Respondent,

v

MEMORANDUM AND ORDER

LARRY PORTER,

Appellant.

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Calendar Date: March 23, 2012

Before: Rose, J.P., Spain, Malone Jr., Kavanagh and  
McCarthy, JJ.

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Stanley Walker, Loudonville, for appellant.

Kevin C. Kortright, District Attorney, Fort Edward  
(Katherine G. Henley of counsel), for respondent.

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Malone Jr., J.

Appeal from a judgment of the County Court of Washington County (McKeighan, J.), rendered January 21, 2011, which resentenced defendant following his conviction of the crime of assault in the second degree (two counts).

In October 2011, while an inmate at Great Meadow Correctional Facility in Washington County, defendant was convicted of two counts of assault in the second degree and sentenced as a second felony offender to concurrent prison terms of seven years (305 AD2d 933 [2003], lv denied 100 NY2d 586 [2003]). Upon learning that the mandatory periods of postrelease supervision had not been imposed, County Court resentenced defendant to his original sentence plus five years of postrelease

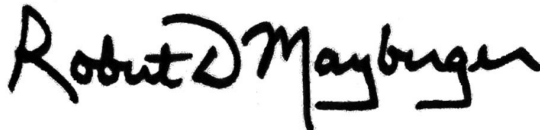
supervision. Defendant appeals.

For the reasons set forth in People v Porter (\_\_\_ AD3d \_\_\_ [decided herewith]), we find that County Court properly resentenced defendant by adding periods of postrelease supervision (see Penal Law § 70.00 [6]; § 70.06 [1] [a], [b]; § 70.45 [1]; People v Wright, 85 AD3d 1316, 1316 [2011]). Further, as in People v Porter (supra), we find that the resentencing did not amount to a violation of defendant's double jeopardy rights (see People v Williams, 14 NY3d 198, 217 [2010], cert denied 562 US \_\_\_, 131 S Ct 125 [2010]), and defendant received the effective assistance of counsel (see generally People v Caban, 5 NY3d 143, 152 [2005]; People v Wright, 85 AD3d at 1317).

Rose, J.P., Spain, Kavanagh and McCarthy, JJ., concur.

ORDERED that the judgment is affirmed.

ENTER:

A handwritten signature in black ink that reads "Robert D. Mayberger". The signature is written in a cursive, slightly slanted style.

Robert D. Mayberger  
Clerk of the Court