

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

504

KA 09-00156

PRESENT: SCUDDER, P.J., MARTOCHE, LINDLEY, GREEN, AND GORSKI, JJ.

THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

KENNETH THIELE, DEFENDANT-APPELLANT.

WYOMING COUNTY-ATTICA LEGAL AID BUREAU, INC., CONFLICT DEFENDERS,
WARSAW (NORMAN P. EFFMAN OF COUNSEL), FOR DEFENDANT-APPELLANT.

THOMAS E. MORAN, DISTRICT ATTORNEY, GENESEO (ERIC R. SCHIENER OF
COUNSEL), FOR RESPONDENT.

Appeal from a resentencing of the Livingston County Court (Dennis S. Cohen, J.), rendered September 11, 2008. Defendant was resentenced following his conviction, upon his plea of guilty, of sodomy in the first degree.

It is hereby ORDERED that the resentencing so appealed from is unanimously reversed on the law, the original sentence is reinstated and the matter is remitted to Livingston County Court for proceedings pursuant to CPL 470.45.

Memorandum: County Court erred in resentencing defendant pursuant to Correction Law § 601-d to a period of postrelease supervision after defendant had completed serving his determinate sentence of imprisonment and had been released from confinement (see *People v Williams*, 14 NY3d 198, ___; *People v Appleby*, 71 AD3d 1545; *People v Peterkin*, 71 AD3d 1402). We therefore conclude that reversal is required.

Entered: April 30, 2010

Patricia L. Morgan
Clerk of the Court