

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

**1202**

**KA 12-00846**

PRESENT: SCUDDER, P.J., SMITH, CENTRA, WHALEN, AND DEJOSEPH, JJ.

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THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

DEAN MANOR, ALSO KNOWN AS DEAN MCLEAN, ALSO KNOWN  
AS DEAN MCLANE, DEFENDANT-APPELLANT.

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TIMOTHY P. DONAHER, PUBLIC DEFENDER, ROCHESTER (CARA A. WALDMAN OF  
COUNSEL), FOR DEFENDANT-APPELLANT.

SANDRA DOORLEY, DISTRICT ATTORNEY, ROCHESTER (STEPHEN X. O'BRIEN OF  
COUNSEL), FOR RESPONDENT.

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Appeal from a resentencing of the Supreme Court, Monroe County  
(Joseph D. Valentino, J.), rendered February 14, 2012. Defendant was  
resentenced by imposing terms of postrelease supervision.

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

Memorandum: On defendant's prior appeal from a judgment  
convicting him following a jury trial of, inter alia, murder in the  
second degree (Penal Law § 125.25 [1]) and criminal possession of a  
weapon in the second degree (former § 265.03 [2]), we modified the  
judgment by directing that the sentence on the criminal possession of  
a weapon in the second degree count run concurrently with the sentence  
on the murder count (*People v Manor*, 38 AD3d 1257, lv denied 9 NY3d  
847). Defendant now appeals from a resentencing imposing terms of  
postrelease supervision with respect to that conviction.

Defendant failed to preserve for our review his contention that  
the gap of approximately 10 years between his original sentence and  
his resentencing "violated his statutory right to have his sentence  
pronounced 'without unreasonable delay' " (*People v Smikle*, 112 AD3d  
1357, 1358, lv denied 22 NY3d 1141, quoting CPL 380.30 [1]; see *People  
v Woods*, 122 AD3d 1400, 1401, lv denied 25 NY3d 1210). We decline to  
exercise our power to review that contention as a matter of discretion  
in the interest of justice (see CPL 470.15 [3] [c]). He also failed  
to preserve for our review his contention that Supreme Court was  
deprived of jurisdiction by its failure to comply with the time limits  
in Correction Law § 601-d. In any event, that contention is without  
merit. "The Court of Appeals has held that the failure to comply with  
the time requirements set forth in Correction Law § 601-d (4) does not  
constitute a jurisdictional defect depriving the court of the

authority to correct an illegal sentence and to resentence a defendant to a term that includes a period of postrelease supervision" (*People v Langenbach*, 106 AD3d 1338, 1338, lv denied 21 NY3d 1043; see generally *People v Lingle*, 16 NY3d 621, 630-633; *People v Williams*, 14 NY3d 198, 217, cert denied 562 US 947).

Contrary to defendant's additional contention, the court at resentencing did not further modify the sentence beyond the imposition of terms of postrelease supervision, and indeed it specifically directed that the sentence remained as modified by this Court on defendant's prior appeal.