

Tom, J.P., Andrias, Catterson, Moskowitz, Acosta, JJ.

3014

M-2634

The People of the State of New York,
Respondent,

Ind. 58077C/04

-against-

Jesus Pratts,
Defendant-Appellant.

New York City Bar Association,
Amicus Curiae.

Robert S. Dean, Center for Appellate Litigation, New York (Mark
W. Zeno of counsel), for appellant.

Robert T. Johnson, District Attorney, Bronx (Maureen L.
Grosdidier of counsel), for respondent.

Judith Whiting, New York (Lily Goetz of counsel), for amicus
curiae.

Order, Supreme Court, Bronx County (John P. Collins, J.),
rendered December 1, 2009, which denied defendant's CPL 440.46
motion for resentencing, unanimously affirmed.

Defendant, a reincarcerated parole violator, is not eligible
to be resented under the 2009 Drug Law Reform Act (L 2009, ch
56). We conclude that the 2009 DLRA, like its predecessors, "was
not intended to apply to those offenders who have served their
term of imprisonment, have been released from prison to parole
supervision, and whose parole is then violated, with a resulting
period of incarceration" (*People v Bagby*, 11 Misc 3d 882, 887
[2006]). The purpose of the DRLA resentencing provisions is to
relieve prison inmates of onerous sentences of incarceration.

This defendant was relieved of his sentence of incarceration when he was paroled, and he could have remained at liberty by adhering to his parole conditions. Moreover, had he done so for two years, he could have also been relieved of his entire sentence, including parole, pursuant to Executive Law § 259-j(3-a). "If defendant had not violated his parole conditions, he would not have been in the custody of the Department of Correctional Services when he moved to be resentenced, and he would therefore have been ineligible for resentencing" (*People v Rodriguez*, 68 AD3d 676, 676 [2009]). There is no reason to believe that the Legislature intended parole violations to trigger resentencing opportunities (see *People v Mills*, 11 NY3d 527, 537 [2008]; *Bagby*, 11 Misc 3d at 887). A statutory interpretation that is "contrary to the dictates of reason or leads to unreasonable results is presumed to be against the legislative intent" (McKinney's Cons Laws of NY, Book 1, Statutes § 143).

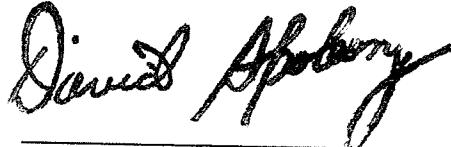
We have considered and rejected defendant's remaining arguments, including those addressed to the alleged distinctions between the 2009 DRLA and its predecessors.

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Motion seeking leave to appear and file brief
as amicus curiae granted.

THIS CONSTITUTES THE DECISION AND ORDER
OF THE SUPREME COURT, APPELLATE DIVISION, FIRST DEPARTMENT.

ENTERED: JUNE 10, 2010

A handwritten signature in cursive script, reading "David Apolony". The signature is written in black ink and is positioned above a horizontal line.

CLERK