

At a Term of the Supreme Court of
the State of New York held in and for
Onondaga County at Syracuse, New York
on the ____ day of January, 2005.

Present: Hon. _____

SUPREME COURT OF THE STATE OF NEW YORK
CRIMINAL TERM PART IV

THE PEOPLE OF THE STATE OF NEW YORK,
Plaintiff,

vs.

Proposed Order
for Resentencing

Indictment # _____
Index # _____

JOHN DOE,
Defendant.

The defendant having made application, pursuant to the so-called “Rockefeller Drug Law Reform” legislation which became effective on January 13, 2005 (L 2004, ch 738, §23), to be resentenced to a determinate sentence in accordance with new Penal Law §70.71,

NOW, upon reading and filing the application of the defendant, John Doe, and the affidavit of the Assistant District Attorney, and upon a hearing held in this matter, this court finds as follows:

FINDINGS OF FACT

1. The defendant was convicted of a class A-I felony for the crime of criminal possession of a controlled substance in the first degree and was sentenced to a determinate sentence of 25 years to life by Hon. William Burke on April 1, 1990.
2. The defendant has made application to be resentenced by application dated January 13, 2005.

3. The defendant was only 19 years old at the time of the offense and was immature in his thoughts and deeds.

4. Defendant has maintained an appropriate prison record.

5. The defendant has participated in a drug treatment program.

6. Defendant has matured while in prison and earned his GED and vocational trade certificate.

7. The defendant is currently in ill health.

8. The defendant qualifies to be resentenced.

ORDERED that upon the findings of fact, and it appearing that substantial justice does not dictate that the application be denied, the application for resentencing is granted. The reason for this order is based upon the findings of fact, the determination of the legislature that the sentencing scheme for drug offenses should be revised and be replaced by a less harsh determinate sentencing scheme, and a determination by this court that the interests of justice will be served by resentencing the defendant to the term specified below.

ORDERED and it is hereby specified, so as to inform the defendant that this court would impose a determinate term of imprisonment of eight (8) years upon the offense of criminal possession of a controlled substance in the first degree for which he stands convicted, as authorized for a class A-I felony by and in accordance with Penal Law §70.71, in the event of a resentence.

NOTICE is hereby given to the defendant that, unless he withdraws the application or appeals from the order, by doing so in writing within fourteen (14) days of the date of this Order, this court will enter an order vacating the sentence originally imposed upon such conviction and imposing a determinate sentence authorized to be imposed upon such conviction by Penal Law §70.71, the term to be eight (8) years.

ENTER

Dated _____

Justice of the Supreme Court