



FAILURE TO INFORM DEFENDANT OF THE PERIOD OF POST RELEASE SUPERVISION REQUIRED VACATION OF THE SENTENCE; PRESERVATION OF THE ERROR NOT NECESSARY (FIRST DEPT).

The First Department, vacating defendant's guilty plea, determined defendant should have been informed his sentence would include a period of post release supervision (PRS). Because defendant was not put on notice, there was not need to preserve the issue for appeal:

At the plea proceeding, the court advised defendant that under the plea agreement, he would plead guilty to third-degree possession, a class B felony, and fifth-degree possession, a class D felony, with the understanding that if he complied with the terms of the plea agreement, he would be allowed to withdraw his plea to the B felony, and be sentenced, solely on the D felony, to 3½ years in prison, followed by two years of postrelease supervision. The court stated that if defendant violated the terms of the plea agreement, he could be sentenced to up to 15 years in prison on the B felony, but it neglected to state that any enhanced sentence would include a period of PRS. Defendant violated the plea agreement by, among other things, failing to appear for sentencing, and the court imposed an enhanced sentence that included two years of post release supervision concurrent on the B and D felonies.

The court was required to advise defendant that his potential sentence in the event he violated the plea conditions would include PRS, and it was also required to specify the length of the term of PRS The prosecutor's brief reference to PRS immediately before sentencing was not the type of notice under [People v Murray \(15 NY3d 725 \[2010\]\)](#) that would require defendant to preserve the issue [People v Jamison, 2020 NY Slip Op 01955, First Dept 3-19-20](#)