

Supreme Court of the State of New York
Appellate Division: Second Judicial Department

D12217
O/mv

_____AD3d_____

GABRIEL M. KRAUSMAN, J.P.
STEVEN W. FISHER
ROBERT A. LIFSON
JOSEPH COVELLO, JJ.

2003-01646

DECISION & ORDER

The People, etc., respondent,
v Andre Rogers, appellant.

(Ind. No. 3641/01)

Andre Rogers, Elmira, N.Y., appellant pro se.

Richard A. Brown, District Attorney, Kew Gardens, N.Y. (John M. Castellano,
Sharon Y. Brodt, and Rona I. Kugler of counsel), for respondent.

Application by the appellant pro se for a writ of error coram nobis to vacate, on the ground of ineffective assistance of appellate counsel, a decision and order of this court dated June 6, 2005 (*People v Rogers*, 19 AD3d 437), affirming a judgment of the Supreme Court, Queens County, rendered February 6, 2003.

ORDERED that the appellant is granted leave to serve and file a brief on the issues of whether trial counsel became a witness against the defendant when he submitted his pro se motion pursuant to CPL 330.30, and whether the trial court should have assigned him a new attorney in connection with CPL 330.30 motion; and it is further,

ORDERED that pursuant to County Law § 722, the following named attorney is assigned as counsel:

Joseph Faraguna, Esq.
P.O. Box 122
Sag Harbor, N.Y. 11963

and it is further,

October 10, 2006

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ORDERED that assigned counsel shall serve and file a brief expeditiously in accordance with this court's rules (*see* 22 NYCRR 670.1, *et seq.*) and written directions; and it is further,

ORDERED that the application is held in abeyance in the interim.

KRAUSMAN, J.P., FISHER, LIFSON and COVELLO, JJ., concur.

ENTER:


James Edward Pelzer
Clerk of the Court