

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

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_____AD3d_____

ANITA R. FLORIO, J.P.
GABRIEL M. KRAUSMAN
REINALDO E. RIVERA
JOSEPH COVELLO, JJ.

2004-01324

DECISION & ORDER

The People, etc., respondent,
v Calvin Cato, appellant.

(Ind. No. 2392/02)

Calvin Cato, Raybrook, N.Y., appellant pro se.

Richard A. Brown, District Attorney, Kew Gardens, N.Y. (John M. Castellano, Sharon Y. Brodt, and Roni C. Piplani of counsel), for respondent.

Lynn W. L. Fahey, New York, N.Y. (Winston McIntosh of counsel), former appellate counsel.

Application by the appellant 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 October 31, 2005 (*People v Cato*, 22 AD3d 863), affirming a judgment of the Supreme Court, Queens County, rendered February 11, 2004.

ORDERED that the application is denied.

The appellant has failed to establish that he was denied the effective assistance of appellate counsel (*see Jones v Barnes*, 463 US 745; *People v Stultz*, 2 NY3d 277).

FLORIO, J.P., KRAUSMAN, RIVERA and COVELLO, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court

October 17, 2006

PEOPLE v CATO, CALVIN