

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

D13195  
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A. GAIL PRUDENTI, P.J.  
HOWARD MILLER  
ROBERT W. SCHMIDT  
ROBERT A. SPOLZINO, JJ.

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2003-01962

DECISION & ORDER

The People, etc., respondent,  
v Aurel Smith, appellant.

(Ind. No. 01-01484)

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Aurel Smith, Dannemora, N.Y., appellant pro se.

Janet DiFiore, District Attorney, White Plains, N.Y. (Valerie A. Livingston and  
Lois C. Valerio of counsel), for respondent.

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 4, 2004 (*People v Smith*, 11 AD3d 491), affirming a judgment of the Supreme Court, Westchester County, rendered November 20, 2002.

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).

PRUDENTI, P.J., MILLER, SCHMIDT and SPOLZINO, JJ., concur.

ENTER:



James Edward Pelzer  
Clerk of the Court

December 19, 2006

PEOPLE v SMITH, AUREL