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

D15742
X/gts

_____AD3d_____ Submitted - May 18, 2007

ROBERT W. SCHMIDT, J.P.
STEPHEN G. CRANE
GABRIEL M. KRAUSMAN
THOMAS A. DICKERSON, JJ.

2003-03609 DECISION & ORDER

The People, etc., respondent,
v Gregory Jones, appellant.

(Ind. No. 01-01135)

Robert Tendy, Wappingers Falls, N.Y., for appellant.

Janet DiFiore, District Attorney, White Plains, N.Y. (Brian F. Fitzgerald, Richard Longworth Hecht, and Anthony J. Servino of counsel), for respondent.

Appeal by the defendant from a judgment of the County Court, Westchester County (Zambelli, J.), rendered April 1, 2003, convicting him of manslaughter in the first degree and robbery in the first degree, upon his plea of guilty, and imposing sentence. Assigned counsel has submitted a brief in accordance with *Anders v California* (386 US 738), in which he moves to be relieved of the assignment to prosecute this appeal.

ORDERED that the motion is granted, Robert Tendy is relieved as the attorney for the appellant and is directed to turn over all papers in his possession to new counsel assigned herein; and it is further,

ORDERED that Dennis M. Walsh, 15 Chester Avenue, White Plains, N.Y., 10601, is assigned as counsel to perfect the appeal; and it is further,

ORDERED that the People are directed to furnish a copy of the certified transcript of the proceedings to the new assigned counsel; and it is further,

ORDERED that new counsel shall serve and file a brief on behalf of the appellant within 90 days of the date of this decision and order and the People shall serve and file their brief within 120 days of the date of this decision and order; by prior decision and order on motion of this court, the defendant was granted leave to prosecute the appeal as a poor person, with the appeal to be heard on the original papers (including the certified transcript of the proceedings) and on the briefs of the parties, who were directed to file nine copies of their respective briefs and to serve one copy on each other.

Upon this court's independent review of the record, we conclude that potentially nonfrivolous issues may exist, inter alia, with respect to the defendant's sentencing and the court's failure to specify the statutorily mandated period of postrelease supervision (*see Anders v California*, 386 US 738; *cf. Hill v United States ex rel. Wampler*, 298 US 460; *People v Guerrero*, 39 AD3d 878; *Earley v Murray*, 451 F3d 71).

Accordingly, assignment of new counsel is warranted (*see People v Stokes*, 95 NY2d 633, 638).

SCHMIDT, J.P., CRANE, KRAUSMAN and DICKERSON, JJ., concur.

ENTER:

James Edward Pelzer
Clerk of the Court