

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

D16324  
C/kmg

\_\_\_\_\_AD3d\_\_\_\_\_

A. GAIL PRUDENTI, P.J.  
HOWARD MILLER  
ROBERT A. SPOLZINO  
GABRIEL M. KRAUSMAN, JJ.

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2002-08290

DECISION & ORDER

The People, etc., respondent,  
v Rafael Fernandez, appellant.

(Ind. No. 1474/01)

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Rafael Fernandez, Auburn, N.Y., appellant pro se.

Richard A. Brown, District Attorney, Kew Gardens, N.Y. (John M. Castellano, Ellen C. Abbot, and Daniel Bresnahan of counsel), for respondent.

Lynn W. L. Fahey, Kew Gardens, N.Y. (Lisa Napoli 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 June 7, 2004 (*People v Fernandez*, 8 AD3d 401), affirming a judgment of the Supreme Court, Queens County, rendered August 19, 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, SPOLZINO and KRAUSMAN, JJ., concur.

ENTER:

  
James Edward Pelzer  
Clerk of the Court

September 25, 2007

PEOPLE v FERNANDEZ, RAFAEL