

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

D16590
O/kmg

_____AD3d_____

Submitted - September 27, 2007

STEPHEN G. CRANE, J.P.
ROBERT A. SPOLZINO
GABRIEL M. KRAUSMAN
WILLIAM E. McCARTHY, JJ.

2002-02613

DECISION & ORDER

The People, etc., respondent,
v Ernest Williams, appellant.

(Ind. No. 5258/01)

Lynn W. L. Fahey, New York, N.Y. (Reyna E. Marder of counsel), for appellant.

Charles J. Hynes, District Attorney, Brooklyn, N.Y. (Leonard Joblove and Karol B. Mangum of counsel), for respondent.

Appeal by the defendant from a judgment of the Supreme Court, Kings County (Kreindler, J.), rendered March 19, 2002, convicting him of robbery in the first degree (two counts), upon a jury verdict, and imposing sentence.

ORDERED that the judgment is affirmed.

The defendant claims that he was deprived of his right to effective assistance of counsel because his counsel called his wife as a witness despite knowing that she had made a statement to the prosecutor which was inconsistent with her expected trial testimony. We disagree. Counsel did not present the wife to establish an alibi, the subject to which her prior inconsistent statement directly related, but for another purpose entirely. Under the circumstances, counsel's decision to call the defendant's wife as a witness was a legitimate strategic decision. Consequently, the defendant failed to establish that "counsel's representation fell below an objective standard of reasonableness" (*Strickland v Washington*, 466 US 668, 688; see *People v Turner*, 5 NY3d 476, 480).

CRANE, J.P., SPOLZINO, KRAUSMAN and McCARTHY, JJ., concur.

ENTER:


James Edward Pelzer
Clerk of the Court

October 16, 2007

PEOPLE v WILLIAMS, ERNEST