

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

D17582
O/kmg

_____AD3d_____

Submitted - December 13, 2007

A. GAIL PRUDENTI, P.J.
STEPHEN G. CRANE
STEVEN W. FISHER
WILLIAM E. McCARTHY, JJ.

2005-09546

DECISION & ORDER

The People, etc., respondent,
v Kaydon Baskerville, appellant.

(Ind. No. 05-546)

Philip C. Schiffman, Washingtonville, N.Y., for appellant, and appellant pro se.

Francis D. Phillips II, District Attorney, Goshen, N.Y. (Daniel M. Reback of counsel),
for respondent.

Appeal by the defendant from a judgment of the County Court, Orange County (DeRosa, J.), rendered September 29, 2005, convicting him of criminal possession of stolen property in the third degree and unauthorized use of a motor vehicle in the third degree, upon a jury verdict, 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, and Philip C. Schiffman is relieved as the attorney for the defendant and is directed to turn over all papers in his possession to new counsel assigned herein; and it is further,

ORDERED that Richard Lentino, 138 West Main Street, Middletown, N.Y., 10940, is assigned as counsel to perfect the appeal; and it is further,

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

ORDERED that new counsel shall serve and file a brief on behalf of the defendant

January 15, 2008

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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 on the original papers (including the typewritten stenographic minutes), and on the typewritten briefs of the parties, who were directed to file nine copies of their respective briefs and to serve one copy on each other.

Upon the defendant's supplemental pro se brief and this Court's independent review of the record, we conclude that potentially nonfrivolous issues exist, including, but not limited to, whether the defendant's convictions were against the weight of the evidence and whether the sentence imposed was excessive (*see* CPL 470.15[5]; *People v Romero*, 7 NY3d 633, 644-645; *People v Diaz*, 43 AD3d 954; *People v Chen*, 37 AD3d 845). Accordingly, the assignment of new counsel is warranted (*see People v Stokes*, 95 NY2d 633, 638).

PRUDENTI, P.J., CRANE, FISHER and McCARTHY, JJ., concur.

ENTER:


James Edward Pelzer
Clerk of the Court