

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

D18678
G/kmg

_____AD3d_____

Submitted - March 12, 2008

REINALDO E. RIVERA, J.P.
ROBERT A. LIFSON
HOWARD MILLER
EDWARD D. CARNI
RANDALL T. ENG, JJ.

2007-02839
2007-04420

DECISION & ORDER

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

(Ind. Nos. 545/06, 822/06)

Lynn W. L. Fahey, New York, N.Y., for appellant.

Richard A. Brown, District Attorney, Kew Gardens, N.Y. (John M. Castellano and Merri Turk Lasky of counsel; Lorrie A. Zinno on the brief), for respondent.

Appeals by the defendant from (1) a judgment of the Supreme Court, Queens County (McGann, J.), rendered March 13, 2007, convicting him of burglary in the second degree under Indictment No. 545/06, upon his plea of guilty, and imposing sentence, and (2) a purported judgment of the same court rendered under Indictment No. 822/06.

ORDERED that the appeal from the purported judgment rendered under Indictment No. 822/06 is dismissed, as that indictment was consolidated with Indictment No. 545/06 and no judgment was rendered separately under Indictment No. 822/06; and it is further,

ORDERED that the judgment rendered under Indictment No. 545/06 is affirmed.

We have reviewed the record and agree with the defendant's assigned counsel that there are no nonfrivolous issues which could be raised on appeal. Counsel's application for leave to

April 1, 2008

Page 1.

PEOPLE v SMITH, ROBERT

withdraw as counsel is granted (*see Anders v California*, 386 US 738; *People v Paige*, 54 AD2d 631; *cf. People v Gonzalez*, 47 NY2d 606).

RIVERA, J.P., LIFSON, MILLER, CARNI and ENG, JJ., concur.

ENTER:

A handwritten signature in black ink, reading "James Edward Pelzer". The signature is written in a cursive, flowing style.

James Edward Pelzer
Clerk of the Court