

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

D19182  
W/hu

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

Submitted - April 9, 2008

ROBERT A. SPOLZINO, J.P.  
DAVID S. RITTER  
MARK C. DILLON  
RUTH C. BALKIN  
JOHN M. LEVENTHAL, JJ.

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2006-00581

DECISION & ORDER

The People, etc., respondent,  
v Jason Brisman, appellant.

(Ind. No. 99/05)

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Del Atwell, East Hampton, N.Y., for appellant.

William V. Grady, District Attorney, Poughkeepsie, N.Y. (Heather A. Ryan of  
counsel), for respondent.

Appeal by the defendant from a judgment of the County Court, Dutchess County  
(Dolan, J.), rendered December 19, 2005, convicting him of attempted promoting prison contraband  
in the first degree, upon his plea of guilty, and imposing sentence.

ORDERED that the judgment is affirmed.

Portions of the defendant's claim of ineffective assistance of counsel are based on  
matter dehors the record, which cannot be reviewed on direct appeal (*see People v Potts*, \_\_\_\_\_  
\_AD3d\_\_\_\_\_, 2008 NY Slip Op 02619 [2d Dept 2008]; *People v Shemack*, 46 AD3d 582, 583;  
*People v Hernandez*, 44 AD3d 684). To the extent that the claim can be reviewed, the record does  
not support the defendant's contention that he was denied the effective assistance of counsel under  
either the Federal or the State Constitution (*see Strickland v Washington*, 466 US 668; *People v*  
*McDonald*, 1 NY3d 109; *People v Baldi*, 54 NY2d 137, 147).

SPOLZINO, J.P., RITTER, DILLON, BALKIN and LEVENTHAL, JJ., concur.

ENTER:



James Edward Pelzer  
Clerk of the Court

May 6, 2008

PEOPLE v BRISMAN, JASON