

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

D19651
C/kmg

_____AD3d_____

Submitted - May 12, 2008

HOWARD MILLER, J.P.
MARK C. DILLON
RUTH C. BALKIN
CHERYL E. CHAMBERS, JJ.

2004-11237

DECISION & ORDER

The People, etc., respondent,
v Alberto Santiago, appellant.

(Ind. No. 1501-03)

Robert C. Mitchell, Riverhead, N.Y. (Alfred J. Cicale of counsel), for appellant.

Thomas J. Spota, District Attorney, Riverhead, N.Y. (Steven A. Hovani of counsel),
for respondent.

Appeal by the defendant from a judgment of the County Court, Suffolk County (Weber, J.), rendered December 9, 2004, convicting him of manslaughter in the first degree and attempted murder in the second degree, upon his plea of guilty, 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 assignment to prosecute this appeal.

ORDERED that the motion is granted, and Robert C. Mitchell 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 Barry Kamen, 26 Hallock Meadow Drive, Stony Brook, N.Y., 11790, 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

June 17, 2008

Page 1.

PEOPLE v SANTIAGO, ALBERTO

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 as a poor person, with the appeal to be heard 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 this Court's independent review of the record, we conclude that nonfrivolous issues exist, including, but not limited to, whether the defendant's plea of guilty was knowingly entered. Accordingly, assignment of new counsel is warranted (*see People v Stokes*, 95 NY2d 633, 638; *People v Baskerville*, 47 AD3d 722, 723).

MILLER, J.P., DILLON, BALKIN and CHAMBERS, JJ., concur.

ENTER:


James Edward Pelzer
Clerk of the Court