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

D20226
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_____AD3d_____

ROBERT A. SPOLZINO, J.P.
STEVEN W. FISHER
MARK C. DILLON
THOMAS A. DICKERSON, JJ.

1997-06273 DECISION & ORDER

The People, etc., respondent,
v David Herion, appellant.

(Ind. No. 14346/96)

David Herion, Stormville, N.Y., appellant pro se.

Charles J. Hynes, District Attorney, Brooklyn, N.Y. (Leonard Joblove and Phyllis Mintz of counsel), for respondent.

Application by the appellant for a writ of error coram nobis to vacate, on the ground of ineffective assistance of appellate counsel, a decision and order of this court dated October 21, 2002 (*People v Herion,* 298 AD2d 529), affirming a judgment of the Supreme Court, Kings County, rendered July 3, 1997.

ORDERED that the application is denied.

The appellant has failed to establish that he was denied the effective assistance of appellate counsel (*see Jones v Barnes,* 463 US 745; *People v Stultz,* 2 NY3d 277).

SPOLZINO, J.P., FISHER, DILLON and DICKERSON, JJ., concur.

ENTER:

James Edward Pelzer
Clerk of the Court

September 9, 2008

PEOPLE v HERION, DAVID