

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

D20352
X/kmg

_____AD3d_____

FRED T. SANTUCCI, J.P.
MARK C. DILLON
RUTH C. BALKIN
CHERYL E. CHAMBERS, JJ.

2002-07727

DECISION & ORDER

The People, etc., respondent,
v Shawn Cruz, appellant.

(Ind. No. 02-00158)

Shawn Cruz, Elmira, N.Y., appellant pro se.

Francis D. Phillips II, District Attorney, Goshen, N.Y. (Andrew R. Kass of counsel),
for respondent.

Bruce D. Townsend, Walden, N.Y., former appellate counsel.

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 December 6, 2004 (*People v Cruz*, 13 AD3d 390), affirming a judgment of the County Court, Orange County, rendered August 16, 2002.

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).

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

ENTER:



James Edward Pelzer
Clerk of the Court

September 9, 2008

PEOPLE v CRUZ, SHAWN