

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

D21345
T/mv

_____AD3d_____

Submitted - November 18, 2008

ROBERT A. SPOLZINO, J.P.
MARK C. DILLON
EDWARD D. CARNI
JOHN M. LEVENTHAL, JJ.

2008-10151

DECISION & JUDGMENT

The People, etc., ex rel. Gerard C. Savage,
on behalf of Martin Ocasio, petitioner, v
Martin F. Horn, Commissioner of Department of
Corrections of City of New York, respondent.

Steven Banks, New York, N.Y. (Gerard C. Savage pro se of counsel), for petitioner.

Richard A. Brown, District Attorney, Kew Gardens, N.Y. (John M. Castellano, Emil
Bricker, and Marilyn A. Filinger of counsel), for respondent.

Writ of habeas corpus in the nature of an application for the release of the detainee,
Martin Ocasio, upon his posting of an insurance company bail bond in the sum of \$25,000.

ADJUDGED that the writ is sustained, without costs or disbursements, and the
respondent Martin F. Horn, Commissioner of the Department of Corrections of the City of New
York, is directed to immediately release the detainee, Martin Ocasio, upon his posting of an insurance
company bail bond in the sum of \$25,000.

While CPL 520.30 allows a court to conduct an inquiry into the source of collateral
pledged to secure issuance of an insurance company bail bond, the court cannot question the business
judgment of the issuing company with regards to the amount of collateral it requires to secure the
bond (*see Matter of Barnes v Cohen*, 45 AD2d 837, *overruled on other grounds Matter of Johnson*
v Crane, 171 AD2d 537; *People v Imran*, 193 Misc 2d 746). Here, the Criminal Court erred in
disapproving the bail on the sole ground that the insurance company had not required sufficient
collateral to be posted before issuing the bond.

SPOLZINO, J.P., DILLON, CARNI and LEVENTHAL, JJ., concur.

ENTER:


James Edward Pelzer
Clerk of the Court

November 25, 2008

PEOPLE EX REL. SAVAGE, on behalf of OCASIO v HORN