

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

D21662  
X/kmg

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Submitted - December 4, 2008

A. GAIL PRUDENTI, P.J.  
MARK C. DILLON  
RANDALL T. ENG  
JOHN M. LEVENTHAL, JJ.

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2007-00359

DECISION & ORDER

The People, etc., respondent,  
v Juan Moran, appellant.

(Ind. No. 1504/05)

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Peter A. Sell, New York, N.Y., for appellant.

Kathleen M. Rice, District Attorney, Mineola, N.Y. (Margaret W. Mainusch and Jason R. Richards of counsel), for respondent.

Appeal by the defendant from a judgment of the Supreme Court, Nassau County (Donnino, J.), rendered February 2, 2006, convicting him of criminal possession of a controlled substance in the fourth degree, upon his plea of guilty, and imposing sentence.

ORDERED that the judgment is affirmed.

The defendant contends that he was denied the effective assistance of counsel because his attorney failed to investigate and inform him of the possibility that he might be ineligible to fully participate in the Comprehensive Alcohol and Substance Abuse Treatment operated by the Department of Correctional Services. However, this claim relies entirely on matter dehors the record, and thus cannot be reviewed on direct appeal (*see People v Ali*, 55 AD3d 919; *People v Mendoza*, 54 AD3d 1059; *People v Torres*, 54 AD3d 976; *People v Gallo*, 54 AD3d 964).

PRUDENTI, P.J., DILLON, ENG and LEVENTHAL, JJ., concur.

ENTER:



James Edward Pelzer  
Clerk of the Court

December 30, 2008

PEOPLE v MORAN, JUAN