

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

D21891
Y/kmg

_____AD3d_____

A. GAIL PRUDENTI, P.J.
DAVID S. RITTER
FRED T. SANTUCCI
HOWARD MILLER, JJ.

2004-11312

DECISION & ORDER

The People, etc., respondent,
v Roy Smith, appellant.

(Ind. No. 2336/03)

Roy Smith, Elmira, N.Y., appellant pro se.

Charles J. Hynes, District Attorney, Brooklyn, N.Y. (Leonard Joblove and Anthea H. Bruffee 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 December 12, 2006 (*People v Smith*, 35 AD3d 635), affirming a judgment of the Supreme Court, Kings County, rendered December 22, 2004.

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).

PRUDENTI, P.J., RITTER, SANTUCCI and MILLER, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court

January 20, 2009

PEOPLE v SMITH, ROY