

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

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_____AD3d_____

STEVEN W. FISHER, J.P.
FRED T. SANTUCCI
RUTH C. BALKIN
ARIEL E. BELEN, JJ.

2007-03255

DECISION & ORDER

The People, etc., respondent,
v Brian Jogie, appellant.

(Ind. No. 487/06)

Brian Jogie, Malone, N.Y., appellant pro se.

Kathleen M. Rice, District Attorney, Mineola, N.Y. (Tammy J. Smiley and Ilisa T. Fleischer 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 May 27, 2008 (*People v Jogie*, 51 AD3d 1038), modifying a judgment of the County Court, Nassau County, rendered March 20, 2007.

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).

FISHER, J.P., SANTUCCI, BALKIN and BELEN, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court

February 3, 2009

PEOPLE v JOGIE, BRIAN