

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

D22750
O/kmg

_____AD3d_____

ROBERT A. SPOLZINO, J.P.
ANITA R. FLORIO
JOSEPH COVELLO
DANIEL D. ANGIOLILLO, JJ.

2004-09628

DECISION & ORDER

The People, etc., respondent,
v John Whaley, appellant.

(Ind. No. 2627/03)

John Whaley, Patchogue, N.Y., appellant pro se.

Thomas J. Spota, District Attorney, Riverhead, N.Y. (Marcia R. Kucera of counsel),
for respondent.

Steven Flaumenhaft, West Sayville, 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 October 30, 2007 (*People v Whaley*, 44 AD3d 1079), affirming a judgment of the County Court, Suffolk County, rendered August 9, 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).

SPOLZINO, J.P., FLORIO, COVELLO and ANGIOLILLO, JJ., concur.

ENTER:


James Edward Pelzer

April 14, 2009

PEOPLE v WHALEY, JOHN

Clerk of the Court

April 14, 2009

PEOPLE v WHALEY, JOHN