

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

D22770
T/kmg

_____AD3d_____

Submitted - March 4, 2009

WILLIAM F. MASTRO, J.P.
STEVEN W. FISHER
ANITA R. FLORIO
RANDALL T. ENG, JJ.

2007-11336

DECISION & ORDER

The People, etc., respondent,
v Tracy Campese, appellant.

(Ind. No. 1311/04)

John F. McGlynn, Rockville Centre, N.Y., for appellant.

Kathleen M. Rice, District Attorney, Mineola, N.Y. (Lauren Del Giorno of counsel;
Matthew C. Frankel on the brief), for respondent.

Appeal by the defendant from a judgment of the County Court, Nassau County (Gulotta, J.), rendered November 7, 2007, convicting her of criminal sale of a controlled substance in the third degree, attempted criminal possession of a controlled substance in the third degree, and criminal possession of a controlled substance in the seventh degree, upon her plea of guilty, and imposing sentence.

ORDERED that the judgment is affirmed.

We have reviewed the record and agree with the defendant's assigned counsel that there are no nonfrivolous issues involving error or defect adversely affecting the defendant which could be raised on appeal. Counsel's application for leave to withdraw as counsel is granted (*see Anders v California*, 386 US 738; *People v Paige*, 54 AD2d 631; *cf. People v Gonzalez*, 47 NY2d 606).

April 14, 2009

Page 1.

PEOPLE v CAMPESE, TRACY

Though the People argue in their brief that the defendant's sentence was illegal, that issue is not properly before us since the People did not take an appeal from the sentence (*see* CPL 450.20[4], 450.30[2]; *People v Andrews*, 29 AD3d 599; *People v Battista*, 167 AD2d 344; *People v Alvarez*, 166 AD2d 603; *People v Pratt*, 119 AD2d 839).

MASTRO, J.P., FISHER, FLORIO and ENG, JJ., concur.

ENTER:

A handwritten signature in black ink, reading "James Edward Pelzer". The signature is written in a cursive, flowing style.

James Edward Pelzer
Clerk of the Court