

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

D23648
O/kmg

_____AD3d_____

Submitted - May 21, 2009

REINALDO E. RIVERA, J.P.
ANITA R. FLORIO
ARIEL E. BELEN
LEONARD B. AUSTIN, JJ.

2005-09742

DECISION & ORDER

The People, etc., respondent,
v David Holman, appellant.

(Ind. No. 84/95)

David Holman, Fallsburg, N.Y., appellant pro se.

William V. Grady, District Attorney, Poughkeepsie, N.Y. (Kirsten A. Rappleyea of counsel), for respondent.

Appeal by the defendant from an order of the County Court, Dutchess County (Dolan, J.), dated September 19, 2005, which denied, without a hearing, his motion pursuant to CPL 440.30(1-a), inter alia, for additional DNA testing of evidence introduced against him at trial.

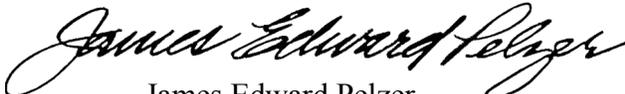
ORDERED that the order is affirmed.

The County Court properly denied the defendant's motion insofar as it challenged the admissibility of DNA evidence admitted at trial, since he previously challenged the admissibility of the DNA evidence on his direct appeal to this Court (*see People v Holman*, 248 AD2d 637; CPL 440.10[2][a]). Moreover, the court properly determined that CPL 440.30(1-a) does not provide for retesting of DNA material (*see People v Jones*, 307 AD2d 721).

The defendant's remaining contentions are without merit.

RIVERA, J.P., FLORIO, BELEN and AUSTIN, JJ., concur.

ENTER:


James Edward Pelzer

June 23, 2009

PEOPLE v HOLMAN, DAVID

Clerk of the Court

June 23, 2009

PEOPLE v HOLMAN, DAVID