

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

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_____AD3d_____

A. GAIL PRUDENTI, P.J.
REINALDO E. RIVERA
PETER B. SKELOS
STEVEN W. FISHER, JJ.

2009-03406

DECISION & ORDER

The People, etc., respondent,
v Mark W. Dail, appellant.

(Ind. No. 43600/75)

Mark W. Dail, Fishkill, N.Y., appellant pro se.

Kathleen M. Rice, District Attorney, Mineola, N.Y. (Robert A. Schwartz and Laurie K. Gibbons 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 January 24, 1997 (*People v Dail*, 55 AD2d 1056), affirming a sentence of the County Court, Nassau County, rendered January 26, 1976.

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., RIVERA, SKELOS and FISHER, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court

October 13, 2009

PEOPLE v DAIL, MARK W.