

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

D25196  
C/kmg

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Submitted - November 4, 2009

REINALDO E. RIVERA, J.P.  
JOSEPH COVELLO  
DANIEL D. ANGIOLILLO  
JOHN M. LEVENTHAL  
SHERI S. ROMAN, JJ.

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2008-09470

DECISION & ORDER

The People, etc., respondent,  
v Mark R. Graebe, appellant.

(Ind. No. 835/08)

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Robert C. Mitchell, Riverhead, N.Y. (Alfred J. Cicale of counsel), for appellant.

Thomas J. Spota, District Attorney, Riverhead, N.Y. (Steven A. Hovani of counsel),  
for respondent.

Appeal by the defendant from a judgment of the County Court, Suffolk County (J. Doyle, J.), rendered September 8, 2008, convicting him of driving while intoxicated and operating a motor vehicle without a safety belt, upon his 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 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).

RIVERA, J.P., COVELLO, ANGIOLILLO, LEVENTHAL and ROMAN, JJ., concur.

ENTER:



James Edward Pelzer  
Clerk of the Court

December 1, 2009

PEOPLE v GRAEBE, MARK R.