

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

D25628
C/kmg

_____AD3d_____

Submitted - December 1, 2009

REINALDO E. RIVERA, J.P.
HOWARD MILLER
JOHN M. LEVENTHAL
CHERYL E. CHAMBERS, JJ.

2008-06424

DECISION & ORDER ON MOTION

The People, etc., respondent,
v Anthony Verdile, appellant.

(Ind. No. 5/08)

Carol Kahn, New York, N.Y., for appellant.

William V. Grady, District Attorney, Poughkeepsie, N.Y. (Bridget Rahilly Steller of counsel), for respondent.

Appeal by the defendant from a judgment of the County Court, Dutchess County (Hayes, J.), rendered June 9, 2008, convicting him of criminal contempt in the second degree, upon his plea of guilty, and imposing sentence. Assigned counsel has submitted a brief in accordance with *Anders v California* (386 US 738), in which she moves to be relieved of the assignment to prosecute this appeal.

ORDERED that the motion is granted, Carol Kahn is relieved as the attorney for the appellant and is directed to turn over all papers in her possession to new counsel assigned herein; and it is further,

ORDERED that Bruce A. Petito, 222 Church Street, Poughkeepsie, N.Y., 12601, is assigned as counsel to perfect the appeal; and it is further,

ORDERED that the People are directed to furnish a copy of the certified transcript of the proceedings to the new assigned counsel; and it is further,

ORDERED that new counsel shall serve and file a brief on behalf of the appellant

January 5, 2010

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within 90 days of the date of this decision and order and the People shall serve and file their brief within 120 days of the date of this decision and order; by prior decision and order on motion of this Court, the defendant was granted leave prosecute the appeal as a poor person, with the appeal to be heard on the original papers (including the certified transcript of the proceedings) and on the briefs of the parties, who were directed to file nine copies of their respective briefs and to serve one copy on each other.

Upon this Court's independent review of the record, we conclude that nonfrivolous issues exist, including, but not limited to, whether the defendant's plea allocution was sufficient (*see People v Lopez*, 71 NY2d 662). Accordingly, assignment of new counsel is warranted (*see People v Stokes*, 95 NY2d 633, 638).

RIVERA, J.P., MILLER, LEVENTHAL and CHAMBERS, 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