

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

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_____AD3d_____

Argued - December 10, 2009

REINALDO E. RIVERA, J.P.
JOHN M. LEVENTHAL
ARIEL E. BELEN
LEONARD B. AUSTIN, JJ.

2007-10080

DECISION & ORDER

The People, etc., respondent,
v Hai Guang Zheng, appellant.

(Ind. No. 3282/95)

Steven Banks, New York, N.Y. (Amy Donner of counsel), for appellant.

Richard A. Brown, District Attorney, Kew Gardens, N.Y. (John M. Castellano, Nicoletta J. Caferri, and Ushir Pandit of counsel), for respondent.

Appeal by the defendant from so much of an order of the Supreme Court, Queens County (Kohm, J.), dated September 21, 2007, as denied, without a hearing, that branch of his motion which was pursuant to CPL 440.30(1-a) for DNA testing.

ORDERED that the order is affirmed insofar as appealed from.

The Supreme Court properly denied, without a hearing, that branch of the defendant's motion which was pursuant to CPL 440.30(1-a) for DNA testing since the defendant failed to show that there was a reasonable probability that the verdict would have been more favorable to him had DNA tests been performed (*see* CPL 440.30[1-a]; *People v Weay*, 54 AD3d 695; *People v Brown*, 36 AD3d 961; *People v Shenouda*, 307 AD2d 938; *People v Pugh*, 288 AD2d 634; *People v De Oliveira*, 223 AD2d 766).

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

ENTER:



James Edward Pelzer
Clerk of the Court

January 19, 2010

PEOPLE v HAI GUANG ZHENG