

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

D26201
C/hu

_____AD3d_____

Submitted - January 19, 2010

PETER B. SKELOS, J.P.
JOSEPH COVELLO
RUTH C. BALKIN
LEONARD B. AUSTIN, JJ.

2008-05965

DECISION & ORDER ON MOTION

The People, etc., respondent,
v Gene Gidron, appellant.

(Ind. No. 2898/07)

Martin Geoffrey Goldberg, Franklin Square, N.Y., for appellant.

Kathleen M. Rice, District Attorney, Mineola, N.Y. (Andrew Fukuda of counsel), for respondent.

Appeal by the defendant from a judgment of the County Court, Nassau County (Ayres, J.), rendered June 20, 2008, convicting him of criminal possession of stolen property in the fifth degree, upon a jury verdict, and imposing sentence. Assigned counsel has submitted a brief in accordance with *Anders v California* (386 US 738) in which he moves to be relieved of the assignment to prosecute this appeal.

ORDERED that the motion is granted, Martin Geoffrey Goldberg is relieved as attorney for the defendant and he is directed to turn over all papers in his possession to new counsel assigned herein; and it is further,

ORDERED that Steven Feldman, 626 Reckson Plaze, West Tower-6th Floor, Uniondale, N.Y., 11556, 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

February 16, 2010

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within 90 days of the date of this decision and order on motion and the People shall serve and file their brief within 120 days of the date of this decision and order on motion; by prior decision and order on motion of this Court, the defendant was granted leave to prosecute the appeal 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 verdict was against the weight of evidence (*see* CPL 470.15[5]; *People v Danielson*, 9 NY3d 342; *People v Mateo*, 2 NY3d 383, 410, *cert denied* 542 US 946; *People v Bleakley*, 69 NY2d 490, 495).

Accordingly, assignment of new counsel is warranted (*see People v Stokes*, 95 NY2d 633, 638; *People v Vasquez*, 70 NY2d 1).

SKELOS, J.P., COVELLO, BALKIN and AUSTIN, 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