

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

D27213
G/hu

_____AD3d_____

Submitted - April 15, 2010

REINALDO E. RIVERA, J.P.
STEVEN W. FISHER
ANITA R. FLORIO
LEONARD B. AUSTIN, JJ.

2006-08895

DECISION & ORDER ON MOTION

The People, etc., respondent,
v Jose Quintero, appellant.

(Ind. No. 1715/00)

David L. Rich, White Plains, N.Y., for appellant, and appellant pro se.

Charles J. Hynes, District Attorney, Brooklyn, N.Y. (Leonard Joblove and Jodi L. Mandel of counsel), for respondent.

Appeal by the defendant from an order of the Supreme Court, Kings County (Tomei, J.), entered July 3, 2006, which, after a hearing, denied his motion for resentencing pursuant to the Drug Law Reform Act of 2005 (L 2005, ch 643) on his conviction of criminal possession of a controlled substance in the second degree, which sentence was originally imposed, upon his plea of guilty, on February 5, 2001. Assigned counsel has submitted a brief in accordance with *Anders v California* (386 US 738) and moves to be relieved of the assignment to prosecute this appeal.

ORDERED that the motion is granted, and David L. Rich is relieved as counsel to the appellant and is directed to turn over all papers in his possession to new counsel assigned herein; and it is further,

ORDERED that Craig Leeds, 350 Fifth Avenue, Suite 3304, New York, N.Y., 10118, telephone number 212-736-2870, is assigned as counsel to perfect the appeal from the order entered July 3, 2006; 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,

May 4, 2010

PEOPLE v QUINTERO, JOSE

Page 1.

ORDERED that new counsel shall serve and file a brief on behalf of the appellant 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 to prosecute the appeal as a poor person, with the appeal to be heard on the original papers (including a 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 Supreme Court improvidently exercised its discretion in denying the defendant's motion for resentencing pursuant to the Drug Law Reform Act of 2005 (L 2005, ch 643).

RIVERA, J.P., FISHER, FLORIO and AUSTIN, JJ., concur.

ENTER:

A handwritten signature in black ink that reads "James Edward Pelzer". The signature is written in a cursive, flowing style.

James Edward Pelzer
Clerk of the Court