

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

D27224
Y/prt

_____AD3d_____

Submitted - April 19, 2010

PETER B. SKELOS, J.P.
FRED T. SANTUCCI
JOHN M. LEVENTHAL
L. PRISCILLA HALL, JJ.

2008-08004

DECISION & ORDER

The People, etc., respondent,
v Marcello McDonald, appellant.

(Ind. No. 685/07)

Lynn W. L. Fahey, New York, N.Y. (Erica Horwitz of counsel), for appellant.

Richard A. Brown, District Attorney, Kew Gardens, N.Y. (John M. Castellano and Sharon Y. Brodt of counsel; Aisha A. Khan-Sajjad on the brief), for respondent.

Appeal by the defendant from a judgment of the Supreme Court, Queens County (Lewis, J.), rendered May 23, 2008, convicting him of arson in the second degree, burglary in the first degree, burglary in the second degree, criminal mischief in the second degree, assault in the second degree (three counts), and criminal possession of a weapon in the fourth degree, 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).

SKELOS, J.P., SANTUCCI, LEVENTHAL and HALL, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court

May 4, 2010

PEOPLE v McDONALD, MARCELLO