

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

D27240  
O/kmg

\_\_\_\_\_AD3d\_\_\_\_\_

Submitted - April 21, 2010

PETER B. SKELOS, J.P.  
MARK C. DILLON  
DANIEL D. ANGIOLILLO  
RANDALL T. ENG  
SANDRA L. SGROI, JJ.

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2009-05350

DECISION & ORDER

The People, etc., respondent,  
v Gabriel Bacallao, appellant.

(Ind. No. 2947/06)

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Robert C. Mitchell, Riverhead, N.Y. (Alfred J. Cicale of counsel), for appellant.

Thomas J. Spota, District Attorney, Riverhead, N.Y. (Steven A. Hovani of counsel),  
for respondent.

Appeal by the defendant from a judgment of the County Court, Suffolk County (Hudson, J.), rendered April 23, 2009, convicting him of attempted burglary in the third 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., DILLON, ANGIOLILLO, ENG and SGROI, JJ., concur.

ENTER:

  
James Edward Pelzer  
Clerk of the Court

May 4, 2010

PEOPLE v BACALLAO, GABRIEL