

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

D27337
C/kmg

_____AD3d_____

Submitted - April 27, 2010

WILLIAM F. MASTRO, J.P.
HOWARD MILLER
JOHN M. LEVENTHAL
ARIEL E. BELEN, JJ.

2008-07135

DECISION & ORDER

The People, etc., respondent,
v Evaristo Rodriguez, appellant.

(Ind. No. 11465/07)

Lynn W. L. Fahey, New York, N.Y. (Barry Stendig of counsel), for appellant, and appellant pro se.

Charles J. Hynes, District Attorney, Brooklyn, N.Y. (Leonard Joblove, Victor Barall, and Diane R. Eisner of counsel; Steven Mizrahi and Stefanie Lampf on the brief), for respondent.

Appeal by the defendant from a judgment of the Supreme Court, Kings County (Murphy, J.), rendered July 3, 2008, convicting him of attempted burglary in the second 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).

May 11, 2010

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The defendant has not, nor could he have, raised any nonfrivolous issues in his supplemental pro se brief.

MASTRO, J.P., MILLER, LEVENTHAL and BELEN, 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