

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

D27611  
O/ct

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

Submitted - May 11, 2010

REINALDO E. RIVERA, J.P.  
ANITA R. FLORIO  
DANIEL D. ANGIOLILLO  
LEONARD B. AUSTIN, JJ.

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2008-07996

DECISION & ORDER

The People, etc., respondent,  
v Gerald Belton, appellant.

(Ind. No. 7010/07)

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Steven Banks, New York, N.Y. (Bonnie B. Goldberg of counsel), for appellant.

Charles J. Hynes, District Attorney, Brooklyn, N.Y. (Leonard Joblove and Solomon Neubort of counsel; Robert Ho on the brief), for respondent.

Appeal by the defendant from a judgment of the Supreme Court, Kings County (Sullivan, J.), rendered August 25, 2008, convicting him of resisting arrest and criminal possession of marijuana in the fifth degree, upon his plea of guilty, and imposing sentence.

ORDERED that the judgment is affirmed.

The defendant's assigned counsel has informed this Court that the defendant does not "accept[] the risk associated with plea vacatur" and, thus, does not wish for counsel to raise any issues relating to the denial, after a hearing, of that branch of his omnibus motion which was to suppress physical evidence and his statement to law enforcement officials. We have reviewed the record and agree with the defendant's assigned counsel that there are no remaining 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).

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

ENTER:

  
James Edward Pelzer  
Clerk of the Court

June 1, 2010

PEOPLE v BELTON, GERALD