

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

D28855
G/kmg

_____AD3d_____

Submitted - October 20, 2010

PETER B. SKELOS, J.P.
FRED T. SANTUCCI
DANIEL D. ANGIOLILLO
L. PRISCILLA HALL
SHERI S. ROMAN, JJ.

2008-11096

DECISION & ORDER

The People, etc., respondent,
v Robert Rivera, appellant.

(Ind. No. 313/00)

Lynn W. L. Fahey, New York, N.Y. (Sarah J. Berger of counsel), for appellant.

Daniel M. Donovan, Jr., District Attorney, Staten Island, N.Y. (Morrie I. Kleinbart of counsel), for respondent.

Appeal by the defendant from a resentence of the Supreme Court, Richmond County (Rienzi, J.), imposed November 14, 2008, upon his conviction of rape in the first degree and assault in the first degree, upon his plea of guilty.

ORDERED that the resentence 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, ANGIOLILLO, HALL and ROMAN, JJ., concur.

ENTER:


Matthew G. Kiernan

Clerk of the Court

November 3, 2010

PEOPLE v RIVERA, ROBERT