

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

D30209  
Y/prt

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

REINALDO E. RIVERA, J.P.  
PETER B. SKELOS  
CHERYL E. CHAMBERS  
LEONARD B. AUSTIN, JJ.

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2008-01704

DECISION & ORDER

The People, etc., respondent,  
v Gary Waters, appellant.

(Ind. No. 1710-07)

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Gary Waters, Fishkill, N.Y., appellant pro se.

Thomas J. Spota, District Attorney, Riverhead, N.Y. (Karla Lato of counsel), for respondent.

Matthew Muraskin, Coram, N.Y., former appellate counsel.

Application by the appellant for a writ of error coram nobis to vacate, on the ground of ineffective assistance of appellate counsel, a decision and order of this Court dated May 19, 2009 (*People v Waters*, 62 AD3d 915), affirming a judgment of the County Court, Suffolk County, rendered December 28, 2007.

ORDERED that the application is denied.

The appellant has failed to establish that he was denied the effective assistance of appellate counsel (*see Jones v Barnes*, 463 US 745; *People v Stultz*, 2 NY3d 277).

RIVERA, J.P., SKELOS, CHAMBERS and AUSTIN, JJ., concur.

ENTER:



Matthew G. Kiernan  
Clerk of the Court

March 1, 2011

PEOPLE v WATERS, GARY