

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

D31205
O/kmb

_____AD3d_____

MARK C. DILLON, J.P.
ANITA R. FLORIO
SHERI S. ROMAN
SANDRA L. SGROI, JJ.

2007-10085

DECISION & ORDER ON APPLICATION

The People, etc., respondent,
v Isan Contant, appellant.

(Ind. No. 06-00362)

Isan Contant, Lords Valley, Pennsylvania, appellant pro se.

Thomas P. Zugibe, District Attorney, New City, N.Y. (Carrie A. Ciganek of counsel),
for respondent.

James D. Licata, New City, N.Y. (Lois Cappelletti of counsel), former appellate
counsel.

Application by the appellant pro se for a writ of error coram nobis to vacate, on the ground of ineffective assistance of counsel, a decision and order of this Court dated October 26, 2010 (*see People v Contant*, 77 AD3d 967), affirming a judgment of the County Court, Rockland County, rendered October 3, 2007.

ORDERED that the application is granted and the decision and order of this Court dated October 26, 2010 (*see People v Contant*, 77 AD3d 967), is recalled and vacated; and it is further,

ORDERED that pursuant to County Law § 722, the following named attorney is assigned as counsel:

John R. Lewis, Esq.
36 Hemlock Drive
Sleepy Hollow, N.Y., 10591

May 10, 2011

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and it is further,

ORDERED that assigned counsel shall serve and file a brief expeditiously in accordance with this Court's rules (*see* 22 NYCRR 670.1, *et seq.*) and written directions.

Under the circumstances of this case, we find that former appellate counsel was ineffective in failing to raise the issue that the appellant's waiver of his right to appeal was not valid (*see People v Nicelli*, 74 AD3d 1235), and in failing to evaluate whether there were any nonfrivolous issues which could be raised on appeal.

DILLON, J.P., FLORIO, ROMAN and SGROI, JJ., concur.

ENTER:


Matthew G. Kiernan
Clerk of the Court