

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

D31248
Y/kmb

_____AD3d_____

Submitted - April 27, 2011

MARK C. DILLON, J.P.
JOSEPH COVELLO
RUTH C. BALKIN
PLUMMER E. LOTT
SHERI S. ROMAN, JJ.

2010-03457

DECISION & ORDER

The People, etc., respondent,
v Wesley Keene, appellant.

(Ind. No. 150/03)

Robert C. Mitchell, Riverhead, N.Y. (Alfred J. Cicale of counsel), for appellant.

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

Appeal by the defendant from an order of the County Court, Suffolk County (Braslow, J.), dated March 22, 2010, which denied his motion to be resentenced pursuant to CPL 440.46 upon his conviction of criminal possession of a controlled substance in the third degree, which sentence was originally imposed, upon his plea of guilty, on May 11, 2004. Assigned counsel has submitted a brief in accordance with *Anders v California* (386 US 738), in which he moves for leave to withdraw as counsel for the appellant.

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).

DILLON, J.P., COVELLO, BALKIN, LOTT and ROMAN, JJ., concur.

ENTER: 
Matthew G. Kiernan
Clerk of the Court

May 10, 2011

PEOPLE v KEENE, WESLEY