

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

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Submitted - November 9, 2011

MARK C. DILLON, J.P.
THOMAS A. DICKERSON
JOHN M. LEVENTHAL
LEONARD B. AUSTIN
ROBERT J. MILLER, JJ.

2009-01201

DECISION & ORDER

The People, etc., respondent,
v Marco A. Lepe, appellant.

(Ind. No. 3293/06)

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

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

Appeal by the defendant from a judgment of the County Court, Suffolk County (Hudson, J.), rendered January 8, 2009, convicting him of murder in the second degree, upon his plea of guilty, and imposing sentence. 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).

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The defendant has not, nor could he have, raised any nonfrivolous issues in his pro se supplemental brief.

DILLON, J.P., DICKERSON, LEVENTHAL, AUSTIN and MILLER, JJ., concur.

ENTER:


Matthew G. Kiernan
Clerk of the Court