

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

D33626  
C/kmb

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

Submitted - December 9, 2011

THOMAS A. DICKERSON, J.P.  
CHERYL E. CHAMBERS  
L. PRISCILLA HALL  
ROBERT J. MILLER, JJ.

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2010-07021

DECISION & ORDER ON MOTION

The People, etc., respondent,  
v Rasaun Sanders, appellant.

(Ind. No. 09-00731)

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Scott M. Bishop, White Plains, N.Y., for appellant.

Janet DiFiore, District Attorney, White Plains, N.Y. (Lois Cullen Valerio and  
Richard Longworth Hecht of counsel), for respondent.

Appeal by the defendant from a judgment of the County Court, Westchester County (Hubert, J.), rendered May 27, 2010, convicting him of manslaughter in the first degree and gang assault in the first 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 motion of Scott M. Bishop for leave to withdraw as counsel for the appellant is granted, and he is directed to turn over all papers in his possession to new counsel assigned herein; and it is further,

ORDERED that Mark Diamond, Esq., Box 287356, Yorkville Station, New York, N.Y., 10128, is assigned as counsel to perfect the appeal; and it is further,

ORDERED that the People are directed to furnish a copy of the certified transcript of the proceedings to the new assigned counsel; and it is further,

ORDERED that new counsel shall serve and file a brief on behalf of the appellant

January 17, 2012

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within 90 days of the date of this decision and order on motion and the People shall serve and file their brief within 30 days after the brief on behalf of the appellant is served and filed; by prior decision and order on motion of this Court, the defendant was granted leave to prosecute the appeal as a poor person, with the appeal to be heard on the original papers (including a certified transcript of the proceedings) and on the briefs of the parties, who were directed to file nine copies of their respective briefs and to serve one copy on each other.

“The filing of a sufficient *Anders* brief is essential to ensuring that an indigent party’s rights are protected. Requiring counsel to submit a brief referring to anything in the record that might support the appeal ensures that assigned counsel acted as an advocate, rather than as a mere advisor to the court on the merits of the appeal” (*Matter of Giovanni S. [Jasmin A.]*, 89 AD3d 252 \*3; *see Anders v California*, 386 US 738, 744). Here, the submitted *Anders* brief was deficient, as assigned counsel did not perform the role of a zealous advocate by identifying possible issues for appeal and relating the facts to the point heading that was stated. Accordingly, new counsel is assigned to represent the appellant on the appeal (*see Matter of Giovanni S. [Jasmin A.]*, 89 AD3d 252 at \*3).

DICKERSON, J.P., CHAMBERS, HALL and MILLER, JJ., concur.

ENTER:

  
Aprilanne Agostino  
Clerk of the Court