

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

D33983
W/kmb

_____AD3d_____

Submitted - February 1, 2012

REINALDO E. RIVERA, J.P.
RANDALL T. ENG
CHERYL E. CHAMBERS
SANDRA L. SGROI
ROBERT J. MILLER, JJ.

2011-01838

DECISION & ORDER

The People, etc., respondent,
v Brian D. Horace, appellant.

(Ind. No. 3168/10)

Maureen Galvin Dwyer, Northport, N.Y., for appellant.

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

Appeal by the defendant from a judgment of the Supreme Court, Suffolk County (Condon, J.), rendered February 9, 2011, convicting him of attempted assault in the second degree and driving while ability impaired, 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 she moves for leave to withdraw as counsel for the appellant.

ORDERED that the judgment is affirmed.

We are satisfied with the sufficiency of the brief filed by the defendant's assigned counsel pursuant to *Anders v California* (386 US 738), and, upon an independent review of the record, we conclude that there are no nonfrivolous issues which could be raised on appeal. Counsel's application for leave to withdraw as counsel is, therefore, granted (*see Anders v California*, 386 US 738; *Matter of Giovanni S. [Jasmin A.]*, 89 AD3d 252; *People v Paige*, 54 AD2d 631; *cf. People v Gonzalez*, 47 NY2d 606).

RIVERA, J.P., ENG, CHAMBERS, SGROI and MILLER, JJ., concur.

ENTER:


Aprilanne Agostino
Clerk of the Court

February 14, 2012

PEOPLE v HORACE, BRIAN D.