

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

D35456
C/kmb

_____AD3d_____

Submitted - June 6, 2012

DANIEL D. ANGIOLILLO, J.P.
ANITA R. FLORIO
JOHN M. LEVENTHAL
PLUMMER E. LOTT, JJ.

2010-03573

DECISION & ORDER ON MOTION

The People, etc., respondent,
v Kenroy Jones, appellant.

(Ind. No. 09-00657)

Steven A. Feldman, Uniondale, N.Y., for appellant.

Francis D. Phillips II, District Attorney, Goshen, N.Y. (Elizabeth L. Guinup and Andrew R. Kass of counsel), for respondent.

Appeal by the defendant from a judgment of the County Court, Orange County (Freehill, J.), rendered April 2, 2010, convicting him of attempted criminal possession of a weapon 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 Steven A. Feldman's motion for leave to withdraw as counsel 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 Richard L. Herzfeld, Esq., 104 W. 40th Street, 20th Floor, New York, N.Y., 10018, 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 within 90 days of the date of this decision and order on motion and the People shall serve and file

June 27, 2012

Page 1.

PEOPLE v JONES, KENROY

their brief within 120 days of the date of this decision and order on motion; 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 the 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.

Upon this Court's independent review of the record, we conclude that nonfrivolous issues exist, including, but not necessarily limited to, whether the defendant's right to counsel was adversely affected by his attorney taking a position adverse to him (*see People v Graves*, 95 AD3d 1034; *People v Vega*, 88 AD3d 1022, 1022; *People v Dixon*, 63 AD3d 957, 957). Accordingly, assignment of new counsel is warranted (*see People v Stokes*, 95 NY2d 633, 638-639).

ANGIOLILLO, J.P., FLORIO, LEVENTHAL and LOTT, JJ., concur.

ENTER:


Aprilanne Agostino
Clerk of the Court