

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

D36724  
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Submitted - November 14, 2012

DANIEL D. ANGIOLILLO, J.P.  
RUTH C. BALKIN  
LEONARD B. AUSTIN  
ROBERT J. MILLER, JJ.

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2011-08701

DECISION & ORDER ON MOTION

The People, etc., respondent,  
v James Singleton, appellant.

(Ind. No. 523-89)

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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 (Efman, J.), dated May 13, 2011, which denied his motion for resentencing pursuant to the Drug Law Reform Act of 2005 (L 2005, ch 643, § 1) on his conviction of criminal sale of a controlled substance in the second degree, which sentence was originally imposed, upon his plea of guilty, on July 26, 1989. 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 Robert C. Mitchell 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 Salvatore Adamo, Esq., 350 Fifth Avenue, 59th Floor, New York, N.Y., 10118, 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 transcripts of the proceedings to the new assigned counsel; and it is further,

December 12, 2012

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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 respondent shall serve and file its 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 dated December 1, 2011, the appellant 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 brief submitted by the appellant's counsel pursuant to *Anders v California* (386 US 738) was deficient because it failed to contain any statement of facts and failed to analyze potential appellate issues or highlight facts in the record that might arguably support the appeal (*see People v Sanders*, 91 AD3d 798, 799; *Matter of Giovanni S. [Jasmin A.]*, 89 AD3d 252, 256). Inasmuch as the brief does not demonstrate that assigned counsel acted "as an active advocate on behalf of his . . . client" (*Matter of Giovanni S. [Jasmin A.]*, 89 AD3d at 256 [internal quotation marks omitted]), we must assign new counsel to represent the appellant (*see People v Sanders*, 91 AD3d at 799; *People v Foster*, 90 AD3d 1070, 1071; *Matter of Giovanni S. [Jasmin A.]*, 89 AD3d at 258).

ANGIOLILLO, J.P., BALKIN, AUSTIN and MILLER, JJ., concur.

ENTER:

  
Aprilanne Agostino  
Clerk of the Court