

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

D55258
O/htr

_____AD3d_____

Submitted - March 28, 2018

RUTH C. BALKIN, J.P.
CHERYL E. CHAMBERS
SHERI S. ROMAN
JOSEPH J. MALTESE
FRANCESCA E. CONNOLLY, JJ.

2016-09683

DECISION & ORDER ON MOTION

The People, etc., respondent, v Scott K. Wilson,
appellant.

(Ind. No. 2556/14)

Laurette D. Mulry, Riverhead, NY (Alfred J. Cicale of counsel), for appellant.

Timothy D. Sini, District Attorney, Riverhead, NY (Michael J. Miller of counsel),
for respondent.

Appeal by the defendant from a judgment of the County Court, Suffolk County (Mark D. Cohen, J.), rendered July 14, 2016, convicting him of criminal possession of a controlled substance in the third degree and 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 she moves for leave to withdraw as counsel for the appellant.

ORDERED that the motion of Laurette D. Mulry for leave to withdraw as counsel for the appellant is granted, and she is directed to turn over all papers in her possession to the appellant's new counsel assigned herein; and it is further,

ORDERED that Steven A. Feldman, 626 RXR Plaza, West Tower, 6th Floor, Uniondale, NY, 11556, is assigned as counsel to prosecute the appeal; and it is further,

ORDERED that the respondent is directed to furnish a copy of the certified transcript of the proceedings to the appellant's new assigned counsel; and it is further,

May 2, 2018

PEOPLE v WILSON, SCOTT K.

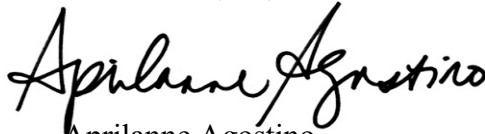
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ORDERED that new counsel shall serve and file a brief on behalf of the appellant within 90 days of the date of this decision and order on motion, and the respondent shall serve and file its brief within 30 days after the brief on behalf of the appellant is served and filed. By prior decision and order on motion of this Court dated January 19, 2017, 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 filed by assigned counsel is deficient, and upon this Court's independent review of the record, we conclude that nonfrivolous issues exist, including, but not necessarily limited to, whether the factual allegations of the 22nd count of the indictment were legally sufficient (*see People v Chata*, 8 AD3d 674, 675; *People v Newell*, 95 AD2d 815, 816), and whether the plea of guilty was entered knowingly, voluntarily, and intelligently (*see People v Mox*, 20 NY3d 936, 938; *People v Lopez*, 71 NY2d 662, 666). Accordingly, the assignment of new counsel is warranted (*see People v Stokes*, 95 NY2d 633, 638; *People v Vasquez*, 70 NY2d 1, 4).

BALKIN, J.P., CHAMBERS, ROMAN, MALTESE and CONNOLLY, JJ., concur.

ENTER:



Aprilanne Agostino
Clerk of the Court