

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

D55369  
M/htr

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Submitted - April 18, 2018

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

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2015-05793

DECISION & ORDER ON MOTION

The People, etc., respondent,  
v Jose Munoz, appellant.

(Ind. No. 1484-14)

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Brian E. O'Donoghue, Kings Park, NY, 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 Supreme Court, Suffolk County (William J. Condon, J.), rendered March 24, 2015, convicting him of attempted burglary 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 the motion of Brian E. O'Donoghue for leave to withdraw as counsel for the appellant is granted, and he is directed to turn over all papers in his possession to the appellant's new counsel assigned herein; and it is further,

ORDERED that Scott Lockwood, 1476 Deer Park Avenue, Suite 3, North Babylon, NY, 11703, 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,

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

May 16, 2018

PEOPLE v MUNOZ, JOSE

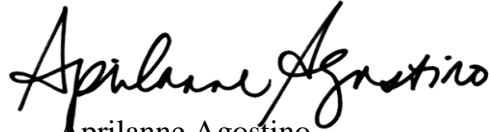
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within 90 days of the date of this decision and order on motion, and the respondent shall serve and file its brief within 30 days after the brief on behalf of the appellant is served and filed. By prior decision and order on motion of this Court dated October 13, 2015, 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) is deficient because it fails to adequately analyze potential appellate issues or highlight facts in the record that might arguably support the appeal (*see People v McNair*, 110 AD3d 742; *People v Singleton*, 101 AD3d 909, 910; *People v Ovalle*, 99 AD3d 1023, 1024; *Matter of Giovanni S. [Jasmin A.]*, 89 AD3d 252, 256). Since the brief does not demonstrate that assigned counsel fulfilled his obligations under *Anders v California*, we must assign new counsel to represent the appellant (*see People v Rivera*, 142 AD3d 512, 513; *People v Parker*, 135 AD3d 966, 968; *People v Sedita*, 113 AD3d 638, 639-640; *Matter of Giovanni S. [Jasmin A.]*, 89 AD3d at 258).

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

ENTER:



Aprilanne Agostino  
Clerk of the Court