

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

D57208  
Q/htr

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Submitted - September 4, 2018

CHERYL E. CHAMBERS, J.P.  
LEONARD B. AUSTIN  
SHERI S. ROMAN  
ANGELA G. IANNACCI, JJ.

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2015-11989  
2015-11990

DECISION & ORDER ON MOTION

The People, etc., respondent,  
v Michael A. Cerasaro, appellant.

(S.C.I. Nos. 80/07, 209/15)

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Yasmin Daley Duncan, Brooklyn, NY, for appellant, and appellant pro se.

William V. Grady, District Attorney, Poughkeepsie, NY (Bridget R. Steller and  
Kirsten A. Rappleyea of counsel), for respondent.

Appeals by the defendant from (1) a judgment of the County Court, Dutchess County (Stephen L. Greller, J.), rendered October 14, 2015, convicting him of possessing a sexual performance by a child, upon his plea of guilty, and imposing sentence, and (2) an amended judgment of the same court, also rendered October 14, 2015, revoking a sentence of probation previously imposed by the same court (Gerald V. Hayes, J.), upon a finding that he violated a condition thereof, upon his admission, and imposing a sentence of imprisonment upon his previous conviction of attempted dissemination of indecent material to minors in the first degree. 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 Yasmin Daley Duncan for leave to withdraw as counsel 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 Arza R. Feldman, 626 RXR Plaza, West Tower, 6th Floor, Uniondale, NY 11556, is assigned as counsel to prosecute the appeals; and it is further,

November 14, 2018

PEOPLE v CERASARO, MICHAEL A.

Page 1.

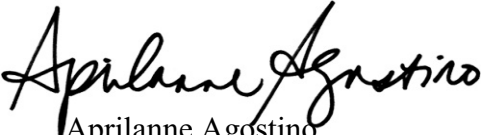
ORDERED that the respondent is directed to furnish a copy of the certified transcript of the proceedings to the appellant's new assigned counsel; and it is further,

ORDERED that new counsel shall serve and file a brief on behalf of the appellant 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 March 4, 2016, as amended by a decision and order on motion of this Court dated March 10, 2016, the appellant was granted leave to prosecute the appeals as a poor person, with the appeals to be heard on the original papers, including a certified transcript of the proceedings, and on the briefs of the parties. The parties are directed to file an original and five duplicate hard copies, and one digital copy, of their respective briefs, and to serve one hard copy on each other (22 NYCRR 1250.9[a][4], [c][1]).

Upon this Court's independent review of the record, we conclude that nonfrivolous issues exist in this case, including, but not necessarily limited to, whether the sentence imposed upon the defendant's conviction of possessing a sexual performance by a child was excessive (*see generally People v Suitte*, 90 AD2d 80). Accordingly, assignment of new counsel is warranted (*see People v Stokes*, 95 NY2d 633, 638; *Matter of Giovanni S. [Jasmin A.]*, 89 AD3d 252).

CHAMBERS, J.P., AUSTIN, ROMAN and IANNACCI, JJ., concur.

ENTER:

  
Aprilanne Agostino  
Clerk of the Court