

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

D57472  
G/afa

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Submitted - September 17, 2018

ALAN D. SCHEINKMAN, P.J.  
RUTH C. BALKIN  
SYLVIA O. HINDS-RADIX  
HECTOR D. LASALLE, JJ.

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2015-07641

DECISION & ORDER ON MOTION

The People, etc., respondent,  
v Jason Powell, appellant.

(Ind. No. 1604/15)

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Paul Skip Laisure, New York, NY (William Kastin of counsel), for appellant.

Eric Gonzalez, District Attorney, Brooklyn, NY (Leonard Joblove and Jodi L. Mandel of counsel), for respondent.

Appeal by the defendant from a judgment of the Supreme Court, Kings County (Evelyn Laporte, J.), rendered July 7, 2015, as amended July 14, 2015, convicting him of criminal contempt in the first 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 Paul Skip Laisure for leave to withdraw as counsel is granted, and he is directed to turn over all papers in his possession to the new counsel assigned herein; and it is further,

ORDERED that Harvey Herbert, 142 Joralemon Street, #8C, Brooklyn, New York, 11201, 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

December 5, 2018

Page 1.

PEOPLE v POWELL, JASON

within 90 days 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 September 30, 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. The parties are directed to file one original and five duplicate hard copies, and one digital copy, of their respective briefs and to serve one copy on each other (*see* 22 NYCRR 1250.9[a][4], [c][1]).

Upon our independent review of the record, we conclude that there are nonfrivolous issues in this case, including, but not necessarily limited to, whether the purported waiver of the defendant's right to appeal was valid (*see People v Brown*, 122 AD3d 133, 146; *People v Keiser*, 100 AD3d 927, 928), which is relevant to the other issue of whether the Supreme Court properly denied the defendant's pretrial suppression motion (*see People v McCalla*, 160 AD3d 662, 664; *People v Carlos*, 126 AD3d 911, 912-913; *People v Frazier*, 124 AD3d 909, 910). Accordingly, assignment of new counsel is warranted (*see People v Stokes*, 95 NY2d 633, 638; *Matter of Giovanni S. [Jasmin A.]*, 89 AD3d 252).

SCHEINKMAN, P.J., BALKIN, HINDS-RADIX and LASALLE, JJ., concur.

ENTER:

A handwritten signature in black ink, reading "Aprilanne Agostino". The signature is written in a cursive, flowing style.

Aprilanne Agostino  
Clerk of the Court