

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

D21363
W/kmg

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Submitted - November 13, 2008

REINALDO E. RIVERA, J.P.
MARK C. DILLON
JOSEPH COVELLO
WILLIAM E. McCARTHY, JJ.

2008-04228

DECISION & ORDER

The People, etc., ex rel. Stephen Catalano, respondent,
v Vincent F. DeMarco, etc., appellant.

(Index No. 17232/08)

Thomas J. Spota, District Attorney, Riverhead, N.Y. (Rosalind Gray and Steven A. Hovani of counsel), for appellant.

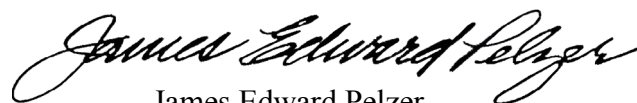
In a proceeding pursuant to CPLR article 70 for a writ of habeas corpus, the appeal is from a judgment of the Supreme Court, Suffolk County (Pitts, J.), dated May 5, 2008, which, after a hearing, granted the petition and sustained the writ to the extent of reducing bail in a criminal action entitled *People v Catalano*, pending in the County Court, Suffolk County, under Indictment No. 1060/2008, from the sum of \$75,000 cash or \$200,000 bond alternative, to the sum of \$2,500 cash or \$10,000 bond alternative.

ORDERED that the judgment is modified, on the law, by increasing bail to the sum of \$50,000 cash or \$100,000 insurance company bond alternative; as so modified, the judgment is affirmed, without costs or disbursements.

Under the circumstances of this case, the bail set by the County Court in the sum of \$75,000 cash or \$200,000 bond alternative was excessive (*see* CPL 510.30; *People ex rel. Rosenthal v Wolfson*, 48 NY2d 230, 232-233), and the Supreme Court had the power to reduce it. We modify the judgment to the extent indicated, which is appropriate under the circumstances.

RIVERA, J.P., DILLON, COVELLO and McCARTHY, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court

December 9, 2008

PEOPLE EX REL. CATALANO v DeMARCO