

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

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A. GAIL PRUDENTI, P.J.
WILLIAM F. MASTRO
REINALDO E. RIVERA
STEVEN W. FISHER, JJ.

2006-01547

DECISION & ORDER

The People, etc., respondent,
Barry Mitchell, appellant.

(Ind. No. 3731/02)

Barry Mitchell, Romulus, N.Y., appellant pro se.

Richard A. Brown, District Attorney, Kew Gardens, N.Y. (John W. Castellano, Johnnette Traill, and Suzanne H. Sullivan of counsel), for respondent.

Lynn W. L. Fahey, New York, N.Y. (William Kastin of counsel), former appellate counsel.

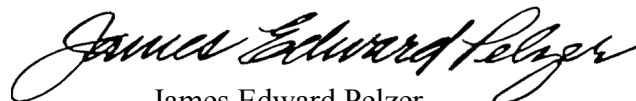
Application by the appellant for a writ of error coram nobis to vacate, on the ground of ineffective assistance of appellate counsel, a decision and order of this Court dated January 29, 2008 (*People v Mitchell*, 47 AD3d 951), affirming a judgment of the Supreme Court, Queens County, rendered January 31, 2005.

ORDERED that the application is denied.

The appellant has failed to establish that he was denied the effective assistance of appellate counsel (*see Jones v Barnes*, 463 US 745; *People v Stultz*, 2 NY3d 277).

PRUDENTI, P.J., MASTRO, RIVERA and FISHER, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court

October 27, 2009

PEOPLE v MITCHELL, BARRY