

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

D24855
Y/prt

_____AD3d_____

Submitted - October 7, 2009

STEVEN W. FISHER, J.P.
ANITA R. FLORIO
DANIEL D. ANGIOLILLO
RANDALL T. ENG
SHERI S. ROMAN, JJ.

2007-11169

DECISION & ORDER

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

(Ind. No. 708/07)

Robert C. Mitchell, Riverhead, N.Y. (Alfred J. Cicale of counsel), for appellant, and appellant pro se.

Thomas J. Spota, District Attorney, Riverhead, N.Y. (Thomas C. Costello of counsel), for respondent.

Appeal by the defendant from a judgment of the County Court, Suffolk County (Gazzillo, J.), rendered October 30, 2007, convicting him of burglary in the second degree, upon his plea of guilty, and imposing sentence.

ORDERED that the judgment is affirmed.

We have reviewed the record and agree with the defendant's assigned counsel that there are no nonfrivolous issues which could be raised on appeal. Counsel's application for leave to withdraw as counsel is granted (*see Anders v California*, 386 US 738; *People v Paige*, 54 AD2d 631; *cf. People v Gonzalez*, 47 NY2d 606).

November 4, 2009

PEOPLE v RIVERA, JOSE

Page 1.

This defendant has not, nor could he have, raised any nonfrivolous issues in his supplemental pro se brief.

FISHER, J.P., FLORIO, ANGIOLILLO, ENG and ROMAN, JJ., concur.

ENTER:

A handwritten signature in black ink, reading "James Edward Pelzer". The signature is written in a cursive, flowing style.

James Edward Pelzer
Clerk of the Court