

**APPELLATE DIVISION OF THE SUPREME COURT OF THE STATE OF NEW
YORK, FOURTH DEPARTMENT**

People v. Smith

2021 NY Slip Op 03805 (App. Div. 2021) · No. KA 17-01118 · Decided June 11, 2021

SUMMARY

The New York Appellate Division, Fourth Department granted assigned appellate counsel's motion to be relieved and directed that new counsel be assigned. The court found a nonfrivolous issue concerning the validity of the defendant's waiver of the right to appeal following his guilty plea and sentence for attempted robbery in the second degree.

OPINION

PER CURIAM.

People v Smith (2021 NY Slip Op 03805) People v Smith 2021 NY Slip Op 03805 Decided on June 11, 2021 Appellate Division, Fourth Department Published by New York State Law Reporting Bureau pursuant to Judiciary Law § 431. This opinion is uncorrected and subject to revision before publication in the Official Reports. Decided on June 11, 2021 PRESENT: CARNI, J.P., LINDLEY, CURRAN, BANNISTER, AND DEJOSEPH, JJ. (Filed June 11, 2021.)

KA 17-01118. [*1]THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, vANTHONY T. SMITH, DEFENDANT-APPELLANT. MEMORANDUM AND ORDER The case is held, the decision is reserved, the motion to relieve counsel of assignment is granted and new counsel is to be assigned. Memorandum: Defendant was convicted upon a guilty plea of attempted robbery in the second degree (Penal Law §§ 110.00, 160.10 [1]) and was sentenced to a determinate term of imprisonment of three years and five years of postrelease supervision.

Defendant's assigned appellate counsel has moved to be relieved of the assignment pursuant to People v Crawford (71 AD2d 38 [4th Dept 1979]). However, a nonfrivolous issue exists as to whether defendant's waiver of the right to appeal was valid.

Therefore, we relieve counsel of his assignment and assign new counsel to brief this issue, as well as any other issues that counsel's review of the record may disclose. (Appeal from Judgment of Monroe County Court, Douglas A. Randall, J. - Attempted Robbery, 2nd Degree).