

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

People v. Jones

2021 NY Slip Op 06628 (N.Y. Ct. App. 2021) · No. 2018-14608 · Decided November 24, 2021

SUMMARY

The Appellate Division, Second Department affirmed the defendant's judgment of conviction for conspiracy in the fourth degree and attempted criminal possession of a weapon in the second degree, entered upon his guilty plea. The court held that assigned counsel's Anders brief was sufficient, found no nonfrivolous appellate issues upon independent review, and granted counsel's motion to withdraw.

OPINION

PER CURIAM.

People v Jones (2021 NY Slip Op 06628) People v Jones 2021 NY Slip Op 06628 Decided on November 24, 2021 Appellate Division, Second 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 November 24, 2021 SUPREME COURT OF THE STATE OF NEW YORK Appellate Division, Second Judicial Department WILLIAM F. MASTRO, J.P.

SYLVIA O. HINDS-RADIX VALERIE BRATHWAITE NELSON LARA J. GENOVESI, JJ. 2018-14608 (Ind. No. 1474/15) [*1]The People of the State of New York, respondent, vLinwood Jones, also known as Miek, also known as Linwood Bonner, appellant. Janet E. Sabel, New York, NY (Kristina Schwarz of counsel), for appellant. Eric Gonzalez, District Attorney, Brooklyn, NY (Leonard Joblove and Jodi L. Mandel of counsel; Robert Ho on the brief), for respondent.

DECISION & ORDER Appeal by the defendant from a judgment of the Supreme Court, Kings County (Martin P. Murphy, J.), rendered September 21, 2018, convicting him of conspiracy in the fourth degree and attempted criminal possession of a weapon in the second 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 she moves for leave to withdraw as counsel for the appellant.

ORDERED that the judgment is affirmed. Under the circumstances of this case, the brief filed by the defendant's assigned counsel pursuant to Anders v California (386 US 738) was sufficient because it addressed the essential issues in this case, and although the brief failed to analyze the validity of the defendant's waiver of the right to appeal and the enforceability of the waiver, the

enforceability or unenforceability of the defendant's waiver of the right to appeal makes no practical difference to the Anders outcome (see *People v Morris*, 187 AD3d 938, 939; *People v Warney*, 186 AD3d 1273; *People v Murray*, 169 AD3d 227, 233).

Moreover, upon an independent review of the record, we conclude that there are no nonfrivolous issues that could be raised on appeal (see *People v Murray*, 169 AD3d 227). Counsel's application for leave to withdraw as counsel is, therefore, granted (see *id.*; *Matter of Giovanni S. [Jasmin A.]*, 89 AD3d 252; *People v Paige*, 54 AD2d 631). MASTRO, J.P., HINDS-RADIX, BRATHWAITE NELSON and GENOVESI, JJ., concur.

ENTER: Maria T. Fasulo Clerk of the Court