

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

M76156
F/sl

ROBERT A. SPOLZINO, J.P.
DAVID S. RITTER
FRED T. SANTUCCI
EDWARD D. CARNI, JJ.

2007-10482

The People, etc., respondent,
v Kevin Oliver, appellant.

(Ind. No. 2518/05)

DECISION & ORDER ON MOTION
Motion for Poor Person Relief
and to Assign Counsel
Appeal from Judgment

Motion by the appellant pro se for leave to prosecute an appeal from a judgment of the Supreme Court, Queens County, rendered October 30, 2007, as a poor person, *and for leave to proceed pro se*, and for a copy of the Grand Jury minutes.

Upon the papers filed in support of the motion and the papers filed in relation thereto, it is

ORDERED that the branches of the motion which are for leave to prosecute the appeal as a poor person and for leave to proceed pro se are granted; and it is further,

ORDERED that the appeal will be heard on the original papers (including a certified transcript of the proceedings, if any) and on the appellant's and the respondent's briefs; the parties are directed to file nine copies of their respective briefs and to serve one copy on each other; and it is further,

ORDERED that the stenographer of the trial court is directed promptly to make, certify, and file two transcripts of the proceedings of any pretrial hearings, of the plea of guilty or of the trial, and of the imposition of sentence in this action, except for those minutes previously transcribed and certified (*see* 22 NYCRR 671.9); and it is further,

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ORDERED that in the event that the case was tried to a conclusion before a jury, the stenographer shall also make, certify, and file two transcripts of the minutes of proceedings during jury selection; and it is further,

ORDERED that the clerk of the trial court shall furnish the certified transcripts of the proceedings, if any, to the clerk of this court, and the clerk of this court shall deliver those minutes to the person in charge of the institution wherein the appellant is incarcerated for examination by the appellant; the transcript shall be returned to this court when the appellant files a brief or informs this court that no brief will be filed; and it is further,

ORDERED that the appellant shall file nine copies of the brief and serve one copy on the District Attorney; and it is further,

ORDERED that in the event the stenographer has already prepared a copy of any of the minutes for a codefendant, then the clerk of the trial court is directed to reproduce a copy thereof for transmission to this court ; and it is further,

ORDERED that the appellant's time to perfect the appeal is enlarged; and it is further,

ORDERED that the branch of the motion which seeks the Grand Jury minutes is denied, and it is further,

ORDERED that in the event the appellant elects to perfect the appeal *pro se*, he shall file along with his brief, a properly executed waiver of his right to appellate counsel, which waiver shall read as follows:

WAIVER OF RIGHT TO APPELLATE COUNSEL

I have been advised that (1) I have the right to be represented by an attorney in prosecuting my appeal, and (2) if I cannot afford to retain counsel, one will be assigned to represent me at State expense. Knowing these rights I have voluntarily elected to waive them and to represent myself on the appeal. I have not been forced to waive my rights and I believe myself to be of sufficient intelligence and ability to properly protect my own interests without the assistance of a lawyer to, among other things, write an appellate brief.

Kevin Oliver

State of)
) ss.
County of)

On the day of in the year before me, the undersigned, a Notary Public in and for said State, personally appeared Kevin Oliver, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same, and that by his signature on the instrument, the individual executed the instrument.

Notary Public

and it is further,

ORDERED that the Clerk of this court, or his designee, is directed to serve a copy of this order upon the Clerk of the court from which the appeal is taken.

SPOLZINO, J.P., RITTER, SANTUCCI, and CARNI, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court

Appellant's address:
07 A 6260
Cape Vincent Corr. Fac.
Route 12E - Box 739
Cape Vincent, New York 13618