

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

M76572
E/sl

A. GAIL PRUDENTI, P.J.
FRED T. SANTUCCI
WILLIAM E. McCARTHY
CHERYL E. CHAMBERS, JJ.

2008-03163

DECISION & ORDER ON MOTION

Kelly Wallace, appellant,
v State of New York, respondent.

(Claim No. 105198)

Motion by the appellant to recall and vacate a decision and order on motion of this court dated April 29, 2008, which dismissed an appeal from a transcript of the Court of Claims certified March 8, 2008, to reinstate the appeal, and, in effect, to enlarge the time to perfect the appeal and to deem the notice of appeal from the transcript to be a premature notice of appeal from an order of the same court dated February 26, 2008.

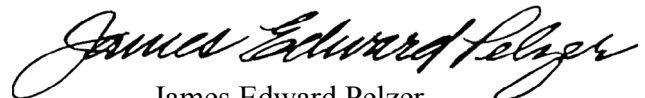
Upon the papers filed in support of the motion and the papers filed in relation or opposition thereto, it is

ORDERED that the branches of the motion which are to recall and vacate the decision and order on motion dated April 29, 2008, and to reinstate the appeal are denied without prejudice to appealing from any judgment entered upon the order (*see* CPLR 5011); and it is further,

ORDERED that the motion is otherwise denied.

PRUDENTI, P.J., SANTUCCI, McCARTHY and CHAMBERS, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court

October 1, 2008

WALLACE v STATE OF NEW YORK