

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

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E/sl

WILLIAM F. MASTRO, J.P.
ROBERT A. LIFSON
EDWARD D. CARNI
RANDALL T. ENG, JJ.

2008-00977

The People, etc., respondent,
v Luis Gomez, appellant.

DECISION & ORDER ON MOTION

(Ind. No. 3232/06)

Motion by the appellant for leave to dispense with printing on an appeal from a judgment of the Supreme Court, Queens County, rendered January 11, 2008, for a copy of the typewritten transcripts of the stenographic minutes, without charge, and to enlarge the time to perfect the appeal.

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

ORDERED that that branch of the motion which is for leave to dispense with printing is denied as unnecessary (*see* 22 NYCRR 670.9[d][1][viii]); and it is further,

ORDERED that the motion is otherwise 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, if any, 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 one certified transcript of each of the proceedings set forth above to the appellant's counsel, without charge (*see* CPL 460.70); retained counsel is directed to turn over those transcripts to the respondent when counsel serves the appellant's brief on the respondent; 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 retained counsel; and it is further,

ORDERED that, upon service of a copy of this decision and order upon it, the Department of Probation is hereby authorized and directed to provide counsel with a copy of the pre-sentence report prepared in connection with the defendant's sentencing, including the recommendation sheet and any prior reports on the defendant which are incorporated or referred to in the report; and it is further,

ORDERED that in the event an issue as to the legality, propriety or excessiveness of the sentence is raised on appeal, or if counsel cites or relies upon the probation report in a brief or motion in any other way, counsel shall provide a complete copy of such report and any attachments to the court and the District Attorney's office prior to the filing of such brief or motion; and it is further,

ORDERED that retained counsel is directed to serve a copy of this order upon the Clerk of the court from which the appeal is taken; and it is further,

ORDERED that the appellant's time to perfect the appeal is enlarged. Retained counsel shall prosecute the appeal expeditiously in accordance with this court's rules (*see* 22 NYCRR 670.1, et seq.) and written directions.

MASTRO, J.P., LIFSON, CARNI and ENG, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court