

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

M80139  
E/cb

A. GAIL PRUDENTI, P.J.  
MARK C. DILLON  
RANDALL T. ENG  
JOHN M. LEVENTHAL, JJ.

---

2008-02070

DECISION & ORDER ON MOTION

In the Matter of Andrew Green, appellant,  
v Brian Fischer, etc., respondent.

(Index No. 6881/07)

---

On the court's own motion, it is

ORDERED that its decision and order on motion dated December 12, 2008, in the above-entitled case is recalled and vacated, and the following decision and order on motion is substituted therefor:

Motion by the respondent to dismiss an appeal from a judgment of the Supreme Court, Dutchess County, dated January 29, 2008, on the ground that it has been rendered academic.

Upon the papers filed in support of the motion and no papers having been filed in opposition or in relation thereto, it is

ORDERED that the motion is *granted and the appeal is dismissed, without costs or disbursements, as academic in light of the appellant's resentment.*

PRUDENTI, P.J., DILLON, ENG and LEVENTHAL, JJ., concur.

ENTER:



James Edward Pelzer  
Clerk of the Court

December 18, 2008

MATTER OF GREEN v FISCHER