

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

M86228
E/cb

PETER B. SKELOS, J.P.
STEVEN W. FISHER
RANDALL T. ENG
ARIEL E. BELEN, JJ.

2008-00982, 2008-09851

DECISION & ORDER ON
MOTION

Josefa Trinidad-Rodriguez, respondent,
v Alvaro Rodriguez, appellant.

(Index No. 5570/04)

Motion by the appellant to recall and vacate so much of a decision and order on motion of this court, entitled “In the Matter of the Dismissal of Causes for Failure to Perfect - November 2008 Calendar,” dated December 8, 2008, as dismissed an appeal from an order of the Supreme Court, Richmond County, dated January 7, 2008, pursuant to 22 NYCRR 670.8(e) for failure to timely perfect, to reinstate the appeal, for leave to withdraw that appeal, and to enlarge the time to perfect an appeal from a judgment of the same court dated September 26, 2008.

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

ORDERED that the motion is granted; and it is further,

ORDERED that so much of the decision and order on motion of this court dated December 8, 2008, as dismissed the appeal from the order dated January 7, 2008 (Appellate Division Docket No. 2008-00982), is recalled and vacated, and that appeal is deemed withdrawn, without costs or disbursements; and it is further,

ORDERED that the appellant's time to perfect the appeal from the judgment dated September 26, 2008 (Appellate Division Docket No. 2008-09851) is enlarged until June 5, 2009, and the record on appeal and the appellant's brief must be served and filed on or before that date.

SKELOS, J.P., FISHER, ENG and BELEN, JJ., concur.

ENTER:


James Edward Pelzer

May 6, 2009

TRINIDAD-RODRIGUEZ v RODRIGUEZ

Clerk of the Court

May 6, 2009

TRINIDAD-RODRIGUEZ v RODRIGUEZ