

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

M87213  
E/sl

REINALDO E. RIVERA, J.P.  
HOWARD MILLER  
RUTH C. BALKIN  
LEONARD B. AUSTIN, JJ.

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2007-02828

DECISION & ORDER ON MOTION

People of State of New York, respondent,  
v Heriberto Rodriguez, appellant.

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Motion by counsel assigned to represent the appellant on an appeal from an order of the County Court, Nassau County, dated March 15, 2007, to be relieved, on the ground that the appellant has been deported and is no longer available to obey the mandate of the court. By order to show cause dated March 31, 2009, the parties or their attorneys were directed to show cause before this court, why an order should or should not be made and entered dismissing the appeal on the ground that the appellant had been deported and was no longer available to obey the mandate of the court (*see Matter of Gerald G.G.*, 46 NY2d 1036; *cf. People v Hutchings*, 40 NY2d 836; *People v Smith*, 115 AD2d 625; *People v Davis*, 87 AD2d 578), and assigned counsel's motion was held in abeyance in the interim.

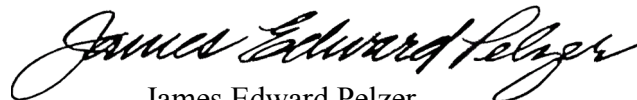
Upon the order to show cause and the papers filed in response thereto, and upon the papers filed in support of assigned counsel's motion and the papers filed in relation thereto, it is

ORDERED that the motion to dismiss the appeal is granted and the appeal is dismissed, without costs or disbursements (*see Matter of Gerald G.G.*, 46 NY2d 1036; *cf. People v Hutchings*, 40 NY2d 836; *People v Smith*, 115 AD2d 625; *People v Davis*, 87 AD2d 578); and it is further,

ORDERED that assigned counsel's motion to be relieved is granted.

RIVERA, J.P., MILLER, BALKIN and AUSTIN, JJ., concur.

ENTER:



James Edward Pelzer  
Clerk of the Court

May 28, 2009

PEOPLE OF STATE OF NEW YORK v RODRIGUEZ