

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

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E/sl

MARK C. DILLON, J.P.  
FRED T. SANTUCCI  
JOSEPH COVELLO  
JOHN M. LEVENTHAL, JJ.

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2007-10476

The People, etc., respondent,  
v Mark Presco, appellant.

DECISION & ORDER ON MOTION

(Ind. No. 461/05)

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Motion by the appellant pro se, in effect, to restore to active status an appeal from a judgment of the Supreme Court, Queens County, rendered May 16, 2006, which was deemed abandoned pursuant to 22 NYCRR 670.8(f), for leave to prosecute the appeal as a poor person, and for the assignment of counsel. By order to show cause dated April 10, 2009, the appellant was directed to show cause before this court why an order should or should not be entered dismissing the appeal on the ground that the notice of appeal was untimely (*see* CPL 460.10[1][a], 460.30), and the appellant's motion was held in abeyance in the interim.

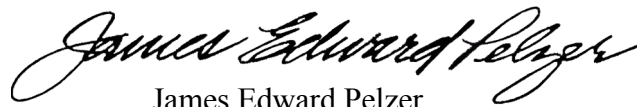
Upon the order to show cause and the papers filed in response thereto, and upon the papers filed in support of the appellant's motion and the papers filed in opposition thereto, it is

ORDERED that the motion to dismiss the appeal is granted and the appeal is dismissed; and it is further,

ORDERED that the appellant's motion is denied as academic.

DILLON, J.P., SANTUCCI, COVELLO and LEVENTHAL, JJ., concur.

ENTER:



James Edward Pelzer  
Clerk of the Court

June 12, 2009

PEOPLE v PRESCO, MARK