

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

M88247
S/sl

A. GAIL PRUDENTI, P.J.
WILLIAM F. MASTRO
REINALDO E. RIVERA
ROBERT A. SPOLZINO
PETER B. SKELOS, JJ.

2009-01938

The People, etc., respondent,
v Israel Martinez, appellant.

(Ind. No. 12423/90)

DECISION & ORDER ON MOTION
Motion for Poor Person Relief
and to Assign Counsel
Appeal from Judgment

On the court's own motion, it is

ORDERED that its decision and order on motion dated June 12, 2009, in the above-entitled case is recalled and vacated, and the following decision and order on motion is substituted therefor:

Motion by the appellant pro se for leave to prosecute an appeal from *an order* of the Supreme Court, Queens County, *dated* January 7, 2009, which *denied his motion to be resentenced* pursuant to chapter 643 of the Laws 2005, as a poor person, and for the assignment of counsel.

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

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

ORDERED that the stenographer of the trial court is directed promptly to make, certify, and file two transcripts of *any hearing held in connection with the order dated January 7, 2009*, except for those minutes previously transcribed and certified (*see* 22 NYCRR 671.9); and it is further,

June 19, 2009

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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); assigned 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 assigned counsel; and it is further,

ORDERED that pursuant to County Law § 722 the following named attorney is assigned as counsel to prosecute the appeal:

The Legal Aid Society
199 Water Street - 5th Floor
New York, New York 10038

and it is further,

ORDERED that in the event the file has been sealed, it is hereby unsealed for the limited purpose of allowing assigned counsel or his representative access to the record for the purpose of preparing the appeal; such access shall include permission to copy the papers insofar as they pertain to the appellant; and it is further,

ORDERED that assigned counsel is directed to serve a copy of this decision and order on motion upon the Clerk of the court from which the appeal is taken.

PRUDENTI, P.J., MASTRO, RIVERA, SPOLZINIO, and SKELOS, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court

Appellant's address:
446 East 179th St. - 4W
Bronx, New York 10457