

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

M88854
E/cb

STEVEN W. FISHER, J.P.
HOWARD MILLER
DANIEL D. ANGIOLILLO
L. PRISCILLA HALL, JJ.

2007-08790

DECISION & ORDER ON MOTION

The People, etc., respondent,
v Hans Irizarry, appellant.

(Ind. No. 10452/04)

Motion by the appellant's assigned counsel on appeal from a judgment of the Supreme Court, Queens County, rendered October 11, 2006, in effect, 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 May 22, 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 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.

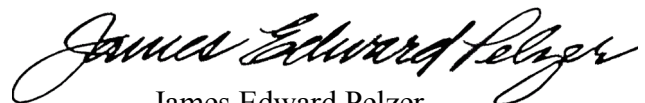
Upon the order to show cause and no papers having been filed in response thereto, and upon the papers filed in support of assigned counsel's motion and the papers filed in relation thereto, it is

ORDERED that the motion to dismiss the appeal is granted and the appeal is dismissed (*see 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.

FISHER, J.P., MILLER, ANGIOLILLO and HALL, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court

July 2, 2009

PEOPLE v IRIZARRY, HANS