

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

M88923  
E/cb

REINALDO E. RIVERA, J.P.  
DANIEL D. ANGIOLILLO  
ARIEL E. BELEN  
LEONARD B. AUSTIN, JJ.

---

2007-07182, 2008-03262

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

ORDER TO SHOW CAUSE

(Ind. Nos. 2394/05, 2177/06)

---

On the court's own motion, it is

ORDERED that its decision and order on motion dated May 28, 2009, in the above-entitled case is recalled and vacated, and the following decision and order on motion is substituted therefor:

Motion by Lynn W. L. Fahey, Esq., counsel assigned to prosecute appeals from two judgments of the Supreme Court, Queens County, rendered July 24, 2007, and November 21, 2007, respectively, in effect, to be relieved on the ground that the appellant has, in effect, abandoned the appeals, by failing to respond to correspondence sent to him by assigned counsel.

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

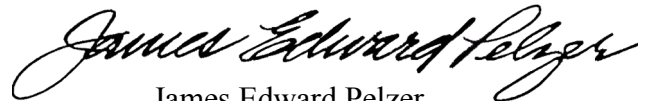
ORDERED that the appellant is directed to show cause before this court why an order should or should not be made and entered dismissing the appeals on the ground that he has abandoned the appeals, by filing an affirmation or an affidavit on that issue in the office of the Clerk of this court on or before July 31, 2009; and it is further,

ORDERED that the motion by assigned counsel to be relieved is held in abeyance in the interim; and it is further,

ORDERED that the Clerk of this court or his designee is directed to serve a copy of this order to show cause upon the appellant at his last known place of residence or, if he is imprisoned, at the institution in which he is confined, and upon the attorney who last appeared for him, and upon the District Attorney, by ordinary mail pursuant to CPL 470.60(2).

RIVERA, J.P., ANGIOLILLO, BELEN and AUSTIN, JJ., concur.

ENTER:

A handwritten signature in black ink, reading "James Edward Pelzer". The signature is written in a cursive style with a large, sweeping initial "J".

James Edward Pelzer  
Clerk of the Court