

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

M90014
E/sl

PETER B. SKELOS, J.P.
JOHN M. LEVENTHAL
L. PRISCILLA HALL
LEONARD B. AUSTIN, JJ.

2006-10050

The People, etc., respondent,
v Melvin Abad, appellant.

DECISION & ORDER ON MOTION

(Ind. No. 10866/05)

Motion by counsel assigned to represent the appellant on an appeal from a judgment of the Supreme Court, Queens County, rendered October 12, 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 12, 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. Separate motion by the respondent to dismiss the appeal.

Upon the order to show cause and no papers having been filed in response thereto, upon the papers filed in support of the motion, in effect, to be relieved and the papers filed in relation thereto, and upon the papers filed in support of the motion, to dismiss the appeal and no papers having been filed in opposition or in relation thereto, it is

ORDERED that the motions to dismiss the appeal are 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, in effect, to be relieved is granted.

SKELOS, J.P., LEVENTHAL, HALL and AUSTIN, JJ., concur.

ENTER:


James Edward Pelzer

July 28, 2009

PEOPLE v ABAD, MELVIN

Clerk of the Court

July 28, 2009

PEOPLE v ABAD, MELVIN