

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

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E/sl

FRED T. SANTUCCI, J.P.
DANIEL D. ANGIOLILLO
RUTH C. BALKIN
CHERYL E. CHAMBERS, JJ.

2008-00685

The People, etc., respondent,
v Andre Duberry, appellant.

DECISION & ORDER ON MOTION

(Ind. No. 573/07)

Motion by Lynn W. L. Fahey, Esq., counsel assigned to prosecute an appeal from a judgment of the Supreme Court, Queens County, rendered January 10, 2008, to be relieved on the ground that the appellant has, in effect, abandoned the appeal, by failing to respond to correspondence sent to him by assigned counsel. By order to show cause dated April 15, 2009, the appellant was 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 he had abandoned the appeal, and the motion by assigned counsel to be relieved was held in abeyance in the interim. By decision and order on motion dated June 25, 2009, the motion to dismiss the appeal was held in abeyance pending the receipt of written response from the appellant advising this court as to whether he wishes to proceed with the appeal or wishes to withdraw the appeal; the appellant was directed to file the written response on or before July 7, 2009. The appellant has not filed the written response.

Upon the order to show cause and the papers filed in response thereto, and upon the papers filed in support of the motion by assigned counsel to be relieved and the papers filed in relation thereto, and upon the decision and order on motion dated June 25, 2009, it is

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

ORDERED that the motion by assigned counsel to be relieved is granted.

SANTUCCI, J.P., ANGIOLILLO, BALKIN and CHAMBERS, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court

July 29, 2009

PEOPLE v DUBERRY, ANDRE