

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

M90787
E/sl

ANITA R. FLORIO, J.P.
HOWARD MILLER
RUTH C. BALKIN
LEONARD B. AUSTIN, JJ.

2009-02228

DECISION & ORDER ON MOTION

Andre Dolberry, etc., appellant,
v State of New York, respondent.

(Motion No. M-75662)

Motion by the appellant for leave to file a late notice of an appeal from an order of the Court of Claims dated December 15, 2008, for leave to prosecute the appeal 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 branch of the motion which is for leave to file a late notice of appeal is denied as unnecessary as the notice of appeal was timely filed; and it is further,


ORDERED that the branch of the motion which is for leave to prosecute the appeal on the original papers is granted, and the appeal will be heard on the original papers (including the transcript of the proceedings, if any) and on the briefs of the parties, who are directed to file nine copies of their respective briefs and to serve one copy on each other; and it is further,

ORDERED that the branches of the motion which are to waive payment of the filing fee, for free transcripts, and for the assignment of counsel are denied; and it is further,

ORDERED that the appellant's time to perfect the appeal by causing the original papers constituting the record on the appeal to be filed in the office of the Clerk of this court (*see* 22 NYCRR 670.9[d][2]) and by serving and filing his brief on the appeal is enlarged until October 19, 2009.

FLORIO, J.P., MILLER, BALKIN and AUSTIN, JJ., concur.

ENTER:


James Edward Pelzer
Clerk of the Court

August 13, 2009

DOLBERRY v STATE OF NEW YORK