

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

M90788  
E/sl

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

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2008-05837

DECISION & ORDER ON MOTION

In the Matter of Sidney Butler, appellant,  
v Commissioner of Westchester County  
Department of Correction, respondent.

(Index No. 08-191)

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Motion by the appellant for the assignment of counsel and to enlarge the time to perfect an appeal from a judgment of the Supreme Court, Westchester County, entered April 4, 2008.

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

ORDERED that the branch of the motion which is to enlarge the time to perfect the appeal is denied; and it is further,

ORDERED that on the court's own motion, the appeal is dismissed, without costs or disbursements, for failure to timely perfect the same in accordance with the rules of this court (*see* 22 NYCRR 670.8[e]); and it is further,

ORDERED that the branch of the motion which is for the assignment of counsel is denied as academic.

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

ENTER:



James Edward Pelzer  
Clerk of the Court

August 13, 2009

MATTER OF BUTLER v COMMISSIONER OF WESTCHESTER COUNTY  
DEPARTMENT OF CORRECTION