

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

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A. GAIL PRUDENTI, P.J.  
HOWARD MILLER  
LEONARD B. AUSTIN  
SHERI S. ROMAN, JJ.

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2007-05188

The People, etc., respondent,  
v Gerald Garson, appellant.

DECISION & ORDER ON MOTION

(Ind. No. 5332/03)

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Motion by the appellant on an appeal from a judgment of the Supreme Court, Kings County, rendered June 5, 2007, in effect, to reject the transcript of the minutes of the grand jury proceedings which was filed under seal with this Court by the respondent and to strike stated portions of the respondent's brief on the ground that they refer to those minutes. Application by the appellant to enlarge the time to serve and file a reply brief.

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

ORDERED that the branch of the motion which is to reject the transcript of the minutes of the grand jury proceedings which was filed under seal with this Court by the respondent is granted, that transcript is rejected, and the Clerk of this Court, or his designee, is directed to return those minutes to the respondent; and it is further,

ORDERED that the branch of the motion which is to strike stated portions of the respondent's brief is granted, and the following material is stricken:

- 1) in the first sentence on page 107 of the respondent's brief, the phrase "see also G.J. 331, 334-36, 364-66", and

2) in the first paragraph on page 180 of the respondent's brief, the material beginning with the words "Indeed, defendant's yelling" and ending with the words "(G.J. 444-45)"; and it is further,

ORDERED that on or before October 2, 2009, the respondent shall remove the stricken material from the copies of the respondent's brief filed with the Clerk of this court or serve and file a replacement brief that does not contain the stricken material; and it is further,

ORDERED that the application is granted, and the reply brief shall be served and filed on or before October 16, 2009.

PRUDENTI, P.J., MILLER, AUSTIN and ROMAN, 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