

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

M93922
E/sl

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

2009-05133

ORDER TO SHOW CAUSE

The People, etc., respondent,
v Aurelio Rosado, appellant.

(Ind. No. 12797/08)

Motion by the appellant pro se for leave to prosecute an appeal from a judgment of the Supreme Court, Kings County, rendered March 18, 2009, as a poor person, and for the assignment of counsel.

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


ORDERED that on the court's own motion, the appellant is 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 notice of appeal is untimely and he had not sought leave to file a late notice of appeal (*see* CPL 460.10[1][a], 460.30), and because the appellant waived his right to appeal, by filing an affidavit on those issues with the Clerk of this court on or before December 4, 2009; and it is further,

ORDERED that the appellant's motion is held in abeyance in the interim; and it is further,

ORDERED that the Clerk of this court or his designee is directed to serve a copy of this order to show cause upon the appellant at his last known place of residence, or, if he is imprisoned, at the institution in which he is confined, and upon the District Attorney, by ordinary mail pursuant to CPL 470.60(2).

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

ENTER:


James Edward Pelzer
Clerk of the Court

October 30, 2009

PEOPLE v ROSADO, AURELIO