

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

D31778  
H/prt

\_\_\_\_\_AD3d\_\_\_\_\_

Submitted - May 31, 2011

PETER B. SKELOS, J.P.  
JOSEPH COVELLO  
RUTH C. BALKIN  
LEONARD B. AUSTIN, JJ.

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2009-03131

DECISION & ORDER  
ON MOTION

The People, etc., respondent,  
v Sneed Wallace, appellant.

(Ind. No. 135/08)

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Michael G. Paul, New City, N.Y., for appellant.

William V. Grady, District Attorney, Poughkeepsie, N.Y. (Kirsten A. Rappleyea of counsel), for respondent.

Appeal by the defendant from a judgment of the County Court, Dutchess County, rendered September 9, 2008. The appeal was perfected on March 3, 2011, the respondent's brief was filed on April 11, 2011, and the appeal was placed on this Court's calendar for May 31, 2011. In the appellant's brief, the appellant's attorney informed the Court that the appellant was deported on or about April 21, 2010.

Now, on the Court's own motion, it is

ORDERED that the appellant, or his attorney, are 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 appellant has been deported and is no longer available to obey the mandate of this Court (*see People v Hutchings*, 40 NY2d 836; *People v Smith*, 115 AD2d 625; *People v Davis*, 87 AD2d 578) by filing an affidavit on that issue in the office of the Clerk of this Court on or before July 21, 2011; 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

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imprisoned, at the institution in which he is confined by ordinary mail pursuant to CPL 470.60(2), and upon the attorney who last appeared for him, and upon the District Attorney, by regular mail; and it is further,

ORDERED that the appeal is held in abeyance in the interim.

SKELOS, J.P., COVELLO, BALKIN and AUSTIN, JJ., concur.

ENTER:

  
Matthew G. Kiernan  
Clerk of the Court