

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

M242006
E/rr

ALAN D. SCHEINKMAN, P.J.
RUTH C. BALKIN
LEONARD B. AUSTIN
SYLVIA O. HINDS-RADIX, JJ.

2009-11581

The People, etc., respondent,
v Alpha Omar Bah, appellant.

ORDER TO SHOW CAUSE

(Ind. No. 171/09)

Motion by the appellant pro se, in effect, to restore to active status an appeal from a judgment of the Supreme Court, Richmond County, rendered November 19, 2009, which was deemed abandoned pursuant to 22 NYCRR 670.8(f), for leave to prosecute the appeal as a poor person, and for the assignment of counsel. Separate motion by the respondent to dismiss the appeal for failure to prosecute.

Upon the papers filed in support of the appellant's motion and the papers filed in relation thereto, and upon the papers filed in support of the respondent's motion and no papers having been filed in opposition or in relation thereto, it is

ORDERED that the appellant's motion is granted to the extent that pursuant to County Law § 722 the following named attorney is assigned as counsel to respond to the respondent's motion, and the appellant's motion is otherwise held in abeyance in the interim:

Paul Skip Laisure
Appellate Advocates
111 John Street - 9th Floor
New York, New York 10038

ORDERED that assigned counsel's time to respond to the respondent's motion is

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extended until May 14, 2018, and the respondent's motion is held in abeyance in the interim; and it is further,

ORDERED that the stenographer of the trial court, or the trial court's designee if that stenographer is no longer available, is directed promptly to make, certify, and file two transcripts of the proceedings of any pretrial hearings, of the plea of guilty or of the trial, and of the imposition of sentence in this action, except for those minutes previously transcribed and certified (*see* 22 NYCRR 671.9), unless the making of any of such transcripts is no longer possible, in which case the stenographer of the trial court, or the trial court's designee, shall file with the clerk of the trial court an affidavit setting forth which proceeding(s) cannot be transcribed; and it is further,

ORDERED that in the event that the case was tried to a conclusion before a jury, the stenographer or the trial court's designee shall also (1) make, certify, and file two transcripts of the minutes of proceedings during jury selection, or (2) file with the clerk of the trial court an affidavit stating that the making of such transcripts is no longer possible; and it is further,

ORDERED that, with respect to each of the proceedings set forth above, the clerk of the trial court shall furnish to assigned counsel (1) one certified transcript of the proceedings, without charge (*see* CPL 460.70), and/or (2) a copy of the affidavit stating that the making of a transcript is no longer possible; assigned counsel is directed to turn over any such transcripts to the respondent when counsel files papers in response to the respondent's motion; and it is further,

ORDERED that in the event the stenographer has already prepared a copy of any of the minutes for a codefendant, then the clerk of the trial court is directed to reproduce a copy thereof for assigned counsel; and it is further,

ORDERED that, upon service of a copy of this decision and order on motion upon it, the Department of Probation is hereby authorized and directed to provide assigned counsel with a copy of the presentence report prepared in connection with the appellant's sentencing, including the recommendation sheet and any prior reports on the appellant which are incorporated in or referred to in the report; and it is further,


ORDERED that in the event that assigned counsel cites or relies upon the probation report in papers filed in response to the respondent's motion, counsel shall provide a complete copy of such report and any attachments to this Court and the respondent prior to the filing of such papers; and it is further,

ORDERED that in the event the file has been sealed, it is hereby unsealed for the limited purpose of allowing assigned counsel or his or her representative access to the record for the purpose of responding to the respondent's motion; such access shall include permission to copy the papers insofar as they pertain to the appellant; and it is further,

ORDERED that assigned counsel is directed to serve a copy of this decision and order on motion upon the clerk of the court from which the appeal is taken.

SCHEINKMAN, P.J., BALKIN, AUSTIN and HINDS-RADIX, JJ., concur.

ENTER:

A handwritten signature in black ink that reads "Aprilanne Agostino". The signature is written in a cursive, flowing style.

Aprilanne Agostino
Clerk of the Court

Appellant's Address:
c/o/ 112 State Street, Suite 720
Albany, NY 12207