

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

M249008
E/rr

ALAN D. SCHEINKMAN, P.J.
WILLIAM F. MASTRO
REINALDO E. RIVERA
MARK C. DILLON
RUTH C. BALKIN, JJ.

2016-12758

The People, etc., appellant,
v Gino Santiago, respondent.

DECISION & ORDER ON MOTION

The People, etc., appellant,
v Christopher Soto, respondent.

(Ind. No. 10509/14)

The People having appealed from an order of the Supreme Court, Queens County, dated October 11, 2016, and the appeal having been perfected on March 5, 2018, and the defendant Christopher Soto having failed to timely file a brief in response thereto.

Now, in compliance with the requirements of *People v Garcia* (93 NY2d 42):

CHRISTOPHER SOTO IS HEREBY ADVISED

- A. that he has the right to the assistance of counsel on the People's appeal;
- B. that if he is financially unable to retain counsel he may make an application to this Court for the assignment of counsel, and, upon proof of such financial inability, one will be appointed for him;
- C. that he has the right to forego the assistance of counsel and to respond to the People's appeal pro se; and
- D. that unless within 60 days from the date of service of this decision and order on motion the defendant Christopher Soto either responds to the appeal pro se or by retained counsel, or moves for the appointment of counsel to represent him, he shall be deemed to have waived his right to counsel on the appeal and it shall be heard and determined on the People's brief alone.

On the Court's own motion, it is:

April 24, 2018

PEOPLE v SANTIAGO, GINO; SOTO, CHRISTOPHER

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ORDERED that the People are directed to serve a copy of this decision and order on motion, together with a copy of their brief and appendix on the appeal, upon the defendant Christopher Soto, by personal delivery of the same to him; and it is further,

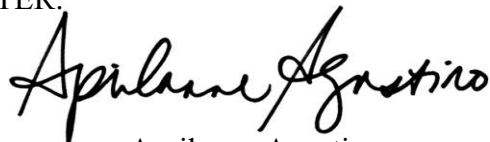
ORDERED that the People shall file proof of such service with the Clerk of this Court within 20 days of the date hereof; and it is further,

ORDERED that the time of the defendant Christopher Soto to respond to the appeal pro se or by retained counsel, or to move for the assignment of counsel, is enlarged until 60 days after the date of service upon him of a copy of this decision and order on motion together with a copy of the appellant's brief and appendix on the appeal, and in the event that he fails to so respond to the appeal, or to move for the assignment of counsel within that time, or fails to move for an enlargement of time to respond to the appeal, the defendant Christopher Soto shall be deemed to have waived his right to counsel, and the appeal shall be considered and determined only on the People's brief and appendix, and the original record; and it is further,

ORDERED that if personal service of a copy of this decision and order on motion cannot be made with due diligence, the People may make ex parte application to this Court for an order authorizing alternative methods of service. Such an application shall be supported by affidavit or affidavits detailing the steps taken to find and serve the defendant Christopher Soto, personally.

SCHEINKMAN, P.J., MASTRO, RIVERA, DILLON and BALKIN, JJ., concur.

ENTER:



Aprilanne Agostino
Clerk of the Court