

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

M288583
AFA/

COLLEEN D. DUFFY, J.P.
CHERYL E. CHAMBERS
LINDA CHRISTOPHER
BARRY E. WARHIT, JJ.

2023-01641

The People, etc., respondent,
v Ziair Mack, appellant.

DECISION & ORDER ON MOTION
Motion for Poor Person Relief
and to Assign Counsel

(Ind. No. 1237/2020)

Motion by Ziair Mack pursuant to CPL 460.30 for an extension of time to take an appeal from a judgment of the Supreme Court, Kings County, rendered July 22, 2022, upon a plea of guilty, for leave to prosecute the appeal as a poor person, and for the assignment of counsel.

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

ORDERED that the motion is granted; and it is further,

ORDERED that the moving papers are deemed to constitute a timely notice of appeal; and it is further,

ORDERED that the appeal will be heard on the original papers (including a certified transcript of the proceedings, if any) and on the appellant's and the respondent's briefs; the appellant and the respondent are directed to upload, through the digital portal on this Court's website, digital copies of their respective briefs, with proof of service of one hard copy on each other, or, if the appellant is self-represented and unable to upload a digital copy, to file one original copy with the Clerk of this Court, with proof of service of one hard copy on the respondent (22 NYCRR 670.9[a]); additionally, the appellant is directed to file proof of service of a subpoena upon the clerk of the court of original instance requiring all documents constituting the record on appeal to be filed with the Clerk of this Court (22 NYCRR 1250.9[a][4][i]); and it is further,

ORDERED that the stenographer of the trial court 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); and it is further,

ORDERED that in the event that the case was tried to a conclusion before a jury, the stenographer shall also make, certify, and file two transcripts of the minutes of proceedings during jury selection; and it is further,

ORDERED that the Clerk of the trial court shall furnish one certified transcript of each of the proceedings set forth above to the appellant's counsel, without charge (*see* CPL 460.70); assigned counsel is directed to turn over those transcripts to the respondent when counsel serves the appellant's brief on the respondent; 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 to provide additional copies to this Court upon demand; and it is further,

ORDERED that in the event an issue as to the legality, propriety, or excessiveness of the sentence is raised on appeal, or if assigned counsel cites or relies upon the probation report in a brief or motion in any other way, counsel shall provide a complete copy of such report and any attachments to the Court and the District Attorney's office prior to the filing of such brief or motion; and it is further,

ORDERED that pursuant to County Law § 722 the following named attorney is assigned as counsel to prosecute the appeal:

Patricia Pazner
Appellate Advocates
111 John Street - 9th Floor
New York, New York 10038

and it is further,

ORDERED that the appellant's time to perfect the appeal is extended; assigned counsel shall prosecute the appeal expeditiously in accordance with this Court's rules (*see* 22 NYCRR 1250.9) and written directions; 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 preparing the appeal; 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.

DUFFY, J.P., CHAMBERS, CHRISTOPHER and WARHIT, JJ., concur.

ENTER:

A handwritten signature in black ink that reads "Maria T. Fasulo". The signature is written in a cursive, flowing style.

Maria T. Fasulo
Clerk of the Court

Appellant's Address:
22-B-3358
Franklin Corr. Fac.
P.O. Box 10
Malone, NY 12953