

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

M71893
S/sl

FRED T. SANTUCCI, J.P.
DANIEL D. ANGIOLILLO
RANDALL T. ENG
CHERYL E. CHAMBERS, JJ.

2008-03647

DECISION & ORDER ON MOTION

In the Matter of Eric Espinosa, petitioner-respondent, v Nicole DeCarlo, respondent, Adoption Services, Inc., appellant.

(Docket No. V-5482/07)

On the court's own motion, it is

ORDERED that its decision and order on motion dated June 11, 2008, in the above-entitled matter is recalled and vacated, and the following decision and order on motion is substituted therefor:

Motion by Adoption Services, Inc., for leave to appeal to this court from an order of the Family Court, Dutchess County, entered February 22, 2008, to hold the appeal in abeyance until after the Family Court determines its motion to renew and reargue, and, in effect, for summary reversal. Application by the petitioner-respondent for leave to prosecute the appeal as a poor person, for the assignment of counsel, and, in effect, to stay all proceedings on the appeal pursuant to 50 USC Appendix § 501, et seq.

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

ORDERED that the branch of the motion which is for leave to appeal is granted; and it is further,

June 16, 2008

MATTER OF ESPINOSA v DeCARLO

Page 1.

ORDERED that the motion is otherwise denied; and it is further,

ORDERED that the application is denied without prejudice to seeking the same relief upon proper motion papers (*see* CPLR 1101; *Warshawsky v Warshawsky*, 215 AD2d 374), *on or before July 1, 2008*.

SANTUCCI, J.P., ANGIOLILLO, ENG and CHAMBERS, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court