

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

M76816  
M/cb

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2008-04757

SCHEDULING ORDER

In the Matter of Herbert McMillian, appellant,  
v Mae Rizzo, respondent.

(Docket No. V-10492-02)

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Appeal by Herbert McMillian from an order of the Family Court, Queens County, dated April 21, 2008. By decision and order on motion of this court dated October 2, 2008, the following attorney was assigned as counsel for the appellant on the appeal:

Tennille Michelle Tatum-Evans, Esq.  
966 St. Nicholas Ave.  
New York, N. Y. 10032  
347-654-6660

Pursuant to § 670.4(a) of the Rules of this court (22 NYCRR 670.4[a]), it is

ORDERED that the appeal in the above-entitled proceeding shall be perfected either within 60 days after the receipt by the assigned counsel of the transcripts of the minutes of the proceedings in the Family Court, and the assigned counsel shall notify this court by letter of the date the transcripts are received, or, in cases where there are no minutes of proceedings to be transcribed, within 60 days of the date of this scheduling order; and it is further,

ORDERED that within 30 days after the date of this scheduling order, the assigned counsel shall file in the office of the Clerk of this court one of the following:

- (1) an affidavit or affirmation stating that there are no minutes of any Family Court proceeding to be transcribed for the appeal; or
- (2) if there are such minutes, an affidavit or affirmation that the transcripts have been received, and indicating the date received; or

October 6, 2008

MATTER OF McMILLIAN v RIZZO

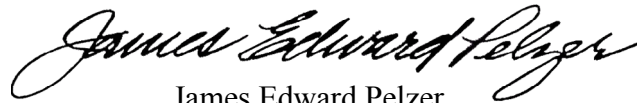
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(3) if the transcripts have not been received, an affidavit or affirmation stating that the order of this court dated October 2, 2008, has been served upon the clerk of the court from which the appeal is taken, the date thereof, and the date by which the transcripts are expected; or

(4) an affidavit or an affirmation withdrawing the appeal; and it is further,

ORDERED that if none of the above actions described in (1), (2), (3), or (4) above, has been taken within 30 days of the date of this scheduling order, the Clerk of the court shall issue an order to all parties to the appeal to show cause why the appeal should or should not be dismissed.

ENTER:



James Edward Pelzer  
Clerk of the Court

The Case Manager assigned to this case is Ms. Vazquez. Please contact her at 718-722-6488 with any questions.