

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

M78906  
S/sl

ROBERT A. SPOLZINO, J.P.  
MARK C. DILLON  
EDWARD D. CARNI  
JOHN M. LEVENTHAL, JJ.

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2008-09413

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

In the Matter of Donahue A. Francis, appellant,  
v Sherry F. Holder, respondent.

(Docket Nos. V-13109-05, V-29791-05)

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Motion by the appellant for leave to prosecute an appeal from an order of the Family Court, Kings County, dated September 17, 2008, as a poor person, and for the assignment of counsel.

Upon the papers filed in support of the motion and no papers having been filed in opposition or relation thereto, it is

ORDERED that the motion is granted; 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 briefs of the appellant, the respondent, and the attorney for the child, if any. The parties are directed to file nine copies of their respective briefs and to serve one copy on each other (22 NYCRR 670.9[d][1][ii]; Family Ct Act § 1116); and it is further,

ORDERED that the stenographer(s) and/or the transcription service(s) is/are required promptly to make and certify two transcripts of the proceedings, if any, in the case of stenographers, both transcripts shall be filed with the clerk of the Family Court, and the clerk of the Family Court shall furnish one of such certified transcripts to the appellant's counsel, without charge; in the case of transcription services, one transcript shall be filed with the clerk of the Family Court and one transcript shall be delivered to the assigned counsel. Assigned counsel is directed to provide copies of said transcripts to all of the other parties to the appeal, including the attorney for the child, if any, when counsel serves the appellant's brief upon those parties; and it is further,

November 24, 2008

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ORDERED that pursuant to Family Court Act § 1120 the following named attorney is assigned as counsel to prosecute the appeal:

Matthew M. Lupoli, Esq.  
167-16 Northern Blvd.  
P.O. Box 580283  
Flushing, New York 11358  
(718) 539-0622


and it is further,

ORDERED that the assigned counsel shall prosecute the appeal expeditiously in accordance with any scheduling order or orders issued pursuant to § 670.4(a) of the rules of this court (22 NYCRR 670.4[a]); and it is further,

ORDERED that assigned counsel is directed to serve a copy of this order upon the Clerk of the court from which the appeal is taken.

SPOLZINO, J.P., DILLON, CARNI and LEVENTHAL, JJ., concur.

ENTER:

  
James Edward Pelzer  
Clerk of the Court