

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

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ROBERT A. SPOLZINO, J.P.
STEVEN W. FISHER
HOWARD MILLER
EDWARD D. CARNI, JJ.

2008-07542

DECISION & ORDER ON MOTION

In the Matter of Bennie W. Brady, appellant,
v Sonya A. Brady, respondent.

(Docket No. F-017434-94)

Appeal by Bennie W. Brady from an order of the Family Court, Westchester County, dated July 14, 2008. By order to show cause dated November 10, 2008, the parties or their attorneys were directed to show cause before this court why an order should or should not be made and entered dismissing the appeal in the above-entitled proceeding for failure to comply with a scheduling order dated September 15, 2008, issued pursuant to § 670.4(a)(2) of the rules of this court (22 NYCRR 670.4[a][2]). Motion by the appellant pro se for leave to prosecute the appeal as a poor person and for the assignment of counsel.

Upon the order to show cause and the papers filed in response to the order to show cause, and upon the papers filed in support of the appellant's motion and the papers filed in opposition thereto, it is

ORDERED that the motion to dismiss the appeal is denied; and it is further,

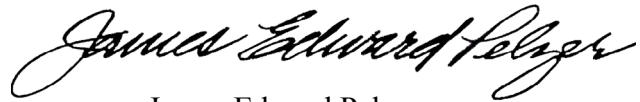
ORDERED that the branch of the appellant's motion which is for leave to prosecute the appeal on the original papers is denied as unnecessary (*see* Family Ct Act § 1116), and the appeal will be heard on the original papers (including a certified transcript of the proceedings, if any) and on the briefs 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 branches of the appellant's motion which are for free transcripts, to waive the filing fee, and for the assignment of counsel are denied; and it is further,

ORDERED that the appellant's time to comply with the scheduling order dated September 15, 2008, is enlarged until January 14, 2009.

SPOLZINO, J.P., FISHER, MILLER and CARNI, JJ., concur.

ENTER:

A handwritten signature in black ink, reading "James Edward Pelzer". The signature is written in a cursive, flowing style.

James Edward Pelzer
Clerk of the Court