

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

M87674
E/sl

ROBERT A. SPOLZINO, J.P.
FRED T. SANTUCCI
CHERYL E. CHAMBERS
PLUMMER E. LOTT, JJ.

2009-04646

DECISION & ORDER ON MOTION

In the Matter of Giovanni Malatesta, respondent,
v Dorina T. Greco, appellant.

(Docket Nos. V-2164-06, V-02423-08)

Motion by the appellant for leave to prosecute an appeal from an order of the Family Court, Westchester County, dated April 23, 2009, as a poor person and for the assignment of counsel.

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

ORDERED that the branch of the 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 children, 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 motion which are to waive the filing fee, for free transcripts, and for the assignment of counsel are denied; and it is further,

ORDERED that pursuant to § 670.4(a) of the Rules of this court (22 NYCRR 670.4[a]), the appeal in the above-entitled proceeding shall be perfected within 60 days after the receipt by the appellant of the transcripts of the minutes of the proceedings in the Family Court, and the appellant 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 order; and it is further,

June 5, 2009

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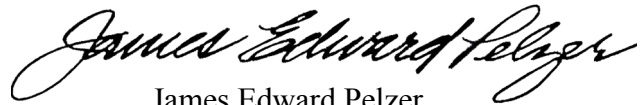
ORDERED that within 20 days after the date of this order, the appellant shall file in the office of the Clerk of this court one of the following:

- (1) an affidavit or affirmation stating that there are no minutes of the Family Court proceeding to be transcribed for the appeal; or
- (2) if there are such minutes, an affidavit or affirmation that the transcript has been received, and indicating the date that it was received; or
- (3) if the transcript has not been received, an affidavit or affirmation stating that it has been ordered and paid for, the date thereof and the date by which the transcript is 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 20 days of the date of this 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.

SPOLZINO, J.P., SANTUCCI, CHAMBERS and LOTT, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court

The Case Manager assigned to this case is Mr. Rose. Please contact him at 718-722-6487 with any questions.