

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

M88945  
E/cb

ANITA R. FLORIO, J.P.  
HOWARD MILLER  
JOHN M. LEVENTHAL  
PLUMMER E. LOTT, JJ.

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2008-07839

DECISION & ORDER ON MOTION

In the Matter of Theodore T. (Anonymous),  
respondent.  
Charles T. (Anonymous), appellant;  
Rene Myatt, et al., nonparty-respondents.

(Index No. 100060/08)

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Motion by Theodore T. to dismiss an appeal from an order and judgment (one paper) of the Supreme Court, Kings County, dated July 15, 2008, on the ground that the transcripts of the proceedings on June 24, 2008, April 22, 2008, May 28, 2008, and June 17, 2008, were not properly settled.

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

ORDERED that the motion is denied on condition that (1) on or before August 3, 2009, the appellant (a) properly settles the transcripts of the proceedings on June 24, 2008, April 22, 2008, May 28, 2008, and June 17, 2008, in accordance with CPLR 5525 and (b) either (i) serves and files a replacement record containing a complete copy of the properly-settled transcript, or (ii) serves and files a supplemental record containing a complete copy of the properly settled transcript and removes from the original record those pages containing portions of the unsettled trial transcript, or (iii) serves and files an affirmation in accordance with the provisions of CPLR 5525(c)(2) in the event that there are no proposed amendments or objections to the transcripts, or (2), if the parties cannot agree on any proposed changes to the transcripts, the appellant shall make a motion to settle the

July 6, 2009

MATTER OF T. (ANONYMOUS), THEODORE

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transcripts in the Supreme Court, Kings County, on or before August 17, 2009, and shall notify this court accordingly.

FLORIO, J.P., MILLER, LEVENTHAL and LOTT, 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