

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

M89644
S/nl

FRED T. SANTUCCI, J.P.
DANIEL D. ANGIOLILLO
RUTH C. BALKIN
CHERYL E. CHAMBERS, JJ.

2008-06247, 2009-00509

DECISION & ORDER ON MOTION

George Schavran, appellant,
v Priscella DeSouza-Schavran, respondent.

(Index No. 05-18689)

Motion by the appellant on appeals from a judgment of the Supreme Court, Suffolk County, dated April 21, 2008, and an order of the same court dated May 27, 2008, to recall and vacate so much of a decision and order on motion of this court entitled “In the Matter of the Dismissal of Causes for Failure to Perfect - February 2009 Calendar”, dated March 17, 2009, as dismissed the appeal from the order dated May 27, 2008 (Appellate Division Docket No. 2008-06247), to reinstate that appeal, for leave to appeal to this court from that order, if necessary, to enlarge the time to perfect that appeal, for leave to appeal from the judgment dated April 21, 2008 (Appellate Division Docket No. 2009-00509), if necessary, to consolidate the appeals, and for leave to prosecute the appeals as a poor person.

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

ORDERED that the branch of the motion which is to recall and vacate so much of a decision and order on motion of this court entitled “In the Matter of the Dismissal of Causes for Failure to Perfect - February 2009 Calendar”, dated March 17, 2009, as dismissed the appeal from the order dated May 27, 2008 (Appellate Division Docket No. 2008-06247), and to reinstate that appeal, is denied; and it is further,

ORDERED that the branches of the motion which were for leave to appeal from the order, to enlarge the time to perfect that appeal, to consolidate that appeal with the appeal from the

July 20, 2009

SCHAVRAN v DeSOUZA-SCHAVRAN

Page 1.

judgment, and for leave to prosecute the appeal from the order as a poor person, are denied as academic; and it is further,

ORDERED that the branch of the motion which is for leave to appeal, if necessary, from the judgment is denied as unnecessary, as the judgment is appealable as of right (*see* CPLR 5701); and it is further,

ORDERED that the branch of the motion which is to prosecute the appeal from the judgment on the original papers and to waive the filing fee is granted; the appeal will be heard on the original papers (including the transcript of the proceedings, if any) and on the briefs of the parties, who are directed to file nine copies of their respective briefs and to serve one copy on each other; and it is further,


ORDERED that payment of the filing fee is waived; and it is further,

ORDERED that the branch of the motion which is for free transcripts is denied; and it is further,

ORDERED that on the court's own motion the appellant's time to perfect the appeal from the judgment by causing the original papers constituting the record on the appeal to be filed in the office of the Clerk of this court (*see* 22 NYCRR 670.9[d][2]) and by serving and filing his brief on the appeal is enlarged until September 15, 2009.

SANTUCCI, J.P., ANGIOLILLO, BALKIN and CHAMBERS, JJ., concur.

ENTER:


James Edward Pelzer
Clerk of the Court