

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

D22837
C/kmg

_____AD3d_____

Submitted - March 11, 2009

ROBERT A. SPOLZINO, J.P.
FRED T. SANTUCCI
DANIEL D. ANGIOLILLO
JOHN M. LEVENTHAL, JJ.

2008-05117

DECISION & ORDER

In the Matter of Dorothy N. (Anonymous), respondent.
Dorothy I. (Anonymous), appellant.

(Index No. 26087/07)

Joseph G. Scali, P.C., Middletown, N.Y., for appellant.

In a guardianship proceeding pursuant to Mental Hygiene Law article 81, the petitioner appeals, as limited by her brief, from so much of an order of the Supreme Court, Westchester County (Rosato, J.), dated May 8, 2008, as granted that branch of the cross petition of Dorothy N. which was for costs pursuant to 22 NYCRR 130-1.1(c) and directed her to pay the sum of \$10,500 to Dorothy N.'s attorney.

ORDERED that the order is affirmed insofar as appealed from, without costs or disbursements.

Under the circumstances of this case, the Supreme Court did not improvidently exercise its discretion in determining that the petitioner's conduct in commencing and maintaining the instant guardianship proceeding was frivolous within the meaning of 22 NYCRR 130-1.1(c), thus warranting the imposition of costs (*see e.g. Matter of Elizabeth R.*, 228 AD2d 445; *Matter of Eastin*, 285 AD2d 646).

SPOLZINO, J.P., SANTUCCI, ANGIOLILLO and LEVENTHAL, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court

April 21, 2009

MATTER OF N. (ANONYMOUS), DOROTHY