

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

D28690
G/prt

_____AD3d_____

Submitted - September 24, 2010

REINALDO E. RIVERA, J.P.
PETER B. SKELOS
CHERYL E. CHAMBERS
SHERI S. ROMAN, JJ.

2009-06436

DECISION & ORDER ON MOTION

In the Matter of Veronica C. (Anonymous), appellant,
v Administration for Children's Services, et al.,
respondent.

(Docket No. V-19669-07)

Leighton M. Jackson, New York, N.Y., for appellant.

Michael A. Cardozo, Corporation Counsel, New York, N.Y. (Pamela Seider Dolgow
and Kristin M. Helmers of counsel), for respondent Administration for Children's
Services.

George E. Reed, White Plains, N.Y., attorney for the child.

In a child custody proceeding pursuant to Family Court Act article 6, the maternal grandmother appeals from an order of the Family Court, Kings County (Lerner, Ct. Atty. Ref.), dated June 11, 2009, which, without a hearing, dismissed her petition to modify an order of custody dated April 7, 2009, with respect to the child Kenneth C., and directed that no further petitions for modification of the order of custody dated April 7, 2009, would be accepted for filing without leave of court. Assigned counsel has submitted a brief in accordance with *Anders v California* (386 US 738), in which he moves to be relieved of his assignment to prosecute this appeal.

ORDERED that the motion is granted, Leighton M. Jackson is relieved as counsel for the appellant, and he is directed to turn over all papers in his possession to new counsel assigned herein; and it is further,

October 19, 2010

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MATTER OF C. (ANONYMOUS) v
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ORDERED that Geanine Towers, 71 Bay Ridge Road, Brooklyn, New York, 11220, telephone number 347-626-5296, is assigned as counsel to perfect the appeal from the order dated June 11, 2009; and it is further,

ORDERED that new counsel shall serve and file a brief on behalf of the appellant within 90 days of the date of this decision and order on motion, and the Administration for Children's Services and the attorney for the child Kenneth C. shall serve and file their briefs within 120 days of this decision and order on motion. By prior decision and order on motion of this Court dated September 21, 2009, the appellant was granted leave to prosecute the appeal as a poor person, with the appeal to be heard on the original papers (including a certified transcript of the proceedings) and on the briefs of the parties, who were directed to file nine copies of their respective briefs and to serve one copy on each other.

Upon this Court's independent review of the record, we conclude that a nonfrivolous issue exists as to whether the Family Court properly denied, without a hearing, the maternal grandmother's petition to modify an order of custody dated April 7, 2009, with respect to the child Kenneth C. Accordingly, assignment of new counsel is warranted (*see Swanton v Swanton*, 70 AD3d 927; *Matter of Bearfield v Sink*, 30 AD3d 1117).

RIVERA, J.P., SKELOS, CHAMBERS and ROMAN, JJ., concur.

ENTER:

A handwritten signature in black ink that reads "Matthew G. Kiernan". The signature is written in a cursive, slightly slanted style.

Matthew G. Kiernan
Clerk of the Court