

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

M244051  
SL/

MARK C. DILLON, J.P.  
SYLVIA O. HINDS-RADIX  
JOSEPH J. MALTESE  
HECTOR D. LASALLE, JJ.

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2017-10347

DECISION & ORDER ON MOTION

In the Matter of Frantz Mervil, appellant,  
v Ruth Exhume, respondent.

(Docket No. F-9511-07/16G)

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Motion by the appellant pro se for leave to prosecute an appeal from an order of the Family Court, Nassau County, dated August 22, 2017, 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 and in relation 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, if there are no minutes of proceedings to be transcribed, within 60 days of the date of this decision and order on motion; and it is further,

ORDERED that pursuant to § 670.4(a) of the rules of this Court (22 NYCRR 670.4[a]), within 30 days of the date of this decision and order on motion, the appellant shall file in the office of the Clerk of this Court one of the following:

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(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 stating 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 actions described in (1), (2), (3), or (4), above has been taken within 30 days of the date of this decision and order on motion, the Clerk of this Court shall issue an order to all parties to the appeal to show cause why the appeal should or should not be dismissed.

DILLON, J.P., HINDS-RADIX, MALTESE and LASALLE, JJ., concur.

ENTER:

  
Aprilanne Agostino  
Clerk of the Court

The Case Manager assigned to this case is Ms. Vazquez. Please contact him/her at 718-722-6488 with any questions.