

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

M245274
E/afa

JOHN M. LEVENTHAL, J.P.
ROBERT J. MILLER
SYLVIA O. HINDS-RADIX
COLLEEN D. DUFFY, JJ.

2017-12540

DECISION & ORDER ON MOTION

In the Matter of Deborah D. (Anonymous).
Administration for Children's Services, petitioner-
respondent; Elliot D. (Anonymous), respondent-appellant.

In the Matter of Isaac D. (Anonymous).
Administration for Children's Services, petitioner-
respondent; Elliot D. (Anonymous), respondent-appellant.

(Docket Nos. N-1043-17, N-01044/17)

On the Court's own motion, it is

ORDERED that the decision and order on motion of this Court dated January 18, 2018, in the above-entitled case is recalled and vacated, and the following decision and order on motion is substituted therefor:

Motion by the appellant pro se for leave to prosecute an appeal from an order of the Family Court, Kings County, dated October 24, 2017, as a poor person and for the assignment of counsel.

Upon the papers filed in support of the motion and no papers having been filed 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 respondent-appellant, the petitioner-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,

January 24, 2018

MATTER OF D. (ANONYMOUS), DEBORAH

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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 proceedings shall be perfected within 60 days after the receipt by the respondent-appellant of the transcripts of the minutes of the proceedings in the Family Court, and the respondent-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 respondent-appellant shall file in the office of the Clerk of this Court one of the following:

- (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 the Court shall issue an order to all parties to the appeal to show cause why the appeal should or should not be dismissed.

LEVENTHAL, J.P., MILLER, HINDS-RADIX and DUFFY, JJ., concur.

ENTER:



Aprilanne Agostino
Clerk of the Court

The Case Manager assigned to this case is Mr. Rose. Please contact him at 718-722-6487 with any questions.