

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

M247951
SL/

MARK C. DILLON, J.P.
CHERYL E. CHAMBERS
JOSEPH J. MALTESE
BETSY BARROS, JJ.

2017-11860

DECISION & ORDER ON MOTION

In the Matter of Orlando F. Huari, respondent,
v Marlin Hernandez, appellant.

(Docket Nos. O-2848-17)

Motion by the appellant pro se for leave to prosecute an appeal from an order of the Family Court, Westchester County, dated September 14, 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 thereto, it is

ORDERED that the motion is denied, with leave to renew on or before April 27, 2018, upon proper papers, including the appellant's affidavit setting forth the appellant's full financial situation including all assets, both real and personal, as well as any and all sources of income and expenses, and whether the appellant was represented by retained counsel or assigned counsel in the Family Court, and if retained, the amount and source of counsel fees paid to retained counsel; 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]), on or before April 27, 2018, the 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

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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) if the appellant is indigent and cannot afford to obtain the minutes or perfect the appeal, a motion in this Court for leave to prosecute the appeal as a poor person and for the assignment of counsel, as set forth above; or

(5) an affidavit or an affirmation withdrawing the appeal; and it is further,

ORDERED that if none of the actions described in (1), (2), (3), (4), or (5), above, has been taken on or before on or before April 27, 2018, 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., CHAMBERS, MALTESE and BARROS, JJ., concur.

ENTER:


Aprilanne Agostino
Clerk of the Court

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