

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

M249014  
E/sl

LEONARD B. AUSTIN, J.P.  
SHERI S. ROMAN  
JEFFREY A. COHEN  
BETSY BARROS, JJ.

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2018-00632

DECISION & ORDER ON MOTION

In the Matter of Paul Pullini, appellant,  
v Michelle E. Giampaolo, respondent.

(Docket Nos. F-17930-09/17B,  
F-17930-09/17C)

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Appeal by Paul Pullini from an order of the Family Court, Kings County, dated November 20, 2017. By order to show cause dated March 8, 2018, the parties were directed to show cause before this Court why an order should or should not be made and entered dismissing the appeal in the above-entitled proceedings for failure to comply with a scheduling order dated January 26, 2018, issued pursuant to § 670.4(a)(5) of the rules of this Court (22 NYCRR 670.4[a][5]). Motion by the appellant pro se for leave to prosecute the appeal as a poor person and for the assignment of counsel.

Now, upon the order to show cause and the papers filed in response thereto, and upon the papers filed in support of the appellant's motion and the papers filed in opposition thereto, it is

ORDERED that the motion to dismiss the appeal is denied; and it is further,

ORDERED that the branch of the appellant's 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 child, 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 appellant's motion which are to waive the filing fee, for free transcripts, and for the assignment of counsel are denied; and it is further,

April 24, 2018

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ORDERED that the appellant's time to comply with the scheduling order dated January 26, 2018, is extended and 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:

- (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 the appellant fails to file the affidavit or affirmation within 30 days of the date of this decision and order on motion, as set forth above, the Court will dismiss the appeal, without further notice.

AUSTIN, J.P., ROMAN, COHEN and BARROS, JJ., concur.

ENTER:

  
Aprilanne Agostino  
Clerk of the Court