

Matter of Hilary C. v Michael K.

Motion No: 2021-03909

Slip Opinion No: 2022 NYSlipOp 60140(U)

Decided on January 06, 2022

Appellate Division, First Department, Motion Decision

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Judiciary Law § 431.

This motion is uncorrected and is not subject to publication in the
Official Reports.

Supreme Court of the State of New York
Appellate Division, First Judicial Department

Present – Hon. Barbara R. Kapnick, Ellen Gesmer Tanya R. Kennedy Saliann Scarpulla Martin Shulman,	Justice Presiding, Justices.
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In the Matter of a Custody/Visitation
Proceeding Under Article 6 of the Family
Court Act.

Confidential

Hilary C.,
Petitioner-Respondent,

Motion No. 2021-03909
Docket Nos. V-05896-18/18E
V-05896-18/19F
V-05896-18/19G
O-00820-21

-against-

Michael K.,
Respondent-Appellant.

Case No. 2021-01579

An appeal having been taken from an order of the Family Court, New York County, entered on or about May 05, 2021, committing the respondent-appellant to the New York City Department of Corrections for a term of thirty (30) days,

And an order of this Court having been entered on May 27, 2021 (M-2021-01604) staying enforcement of the aforesaid order pending the hearing and determination of the appeal taken therefrom on condition respondent-appellant perfects the appeal for the October 2021 Term,

And an order of this Court having been entered on October 7, 2021 (M-2021-03049) extending respondent-appellant's time to perfect the appeal to the February 2022 Term and continuing the stay, said appeal having been perfected,

And petitioner-respondent having moved for an order: (1) vacating the stay granted by this Court on May 27, 2021 and continued on October 7, 2021; (2) dismissing the appeal with prejudice pursuant to the fugitive disentitlement doctrine; and (3) taking judicial notice of Exhibits B-H annexed to the Kahn Affirmation in support of the motion,

Now, upon reading and filing the papers with respect to the motion, and due deliberation having been had thereon,

It is ordered that the motion, to the extent it seeks to vacate the stay and dismiss the appeal, is denied, without prejudice to addressing the issues directly on appeal. That branch of the motion seeking to take judicial notice of the documents annexed to the Kahn Affirmation as Exhibits B-H is granted without prejudice to appellant raising objections in his reply brief. The Clerk is, sua sponte, directed to maintain the appeal on this Court's calendar for the February 2022 Term.

ENTERED: January 06, 2022

A handwritten signature in black ink, appearing to read "Susanna M. Rojas". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

Susanna Molina Rojas
Clerk of the Court