

State of New York
Supreme Court, Appellate Division
Third Judicial Department

Decided and Entered: January 9, 2014

516173

In the Matter of CHRISTOPHER
RR.,
Appellant,
v

MEMORANDUM AND ORDER

ST. LAWRENCE COUNTY DEPARTMENT
OF SOCIAL SERVICES et al.,
Respondents.

Calendar Date: November 20, 2013

Before: Peters, P.J., Rose, McCarthy and Garry, JJ.

Pro Bono Appeals Program, Albany (Alan J. Pierce of
counsel), for appellant.

Barry J. Jones, Hudson Falls, attorney for the child.

Peters, P.J.

Appeal from an order of the Family Court of St. Lawrence
County (Morris, J.), entered May 15, 2012, which, in a proceeding
pursuant to Family Ct Act article 6, granted a motion by the
attorney for the child to dismiss the petition.

The child who is the subject of the instant proceeding
(born in 2010) was removed from the care of his mother at birth
and placed in the custody of respondent St. Lawrence County
Department of Social Services. After petitioner was determined
to be the child's father, he commenced this proceeding by order
to show cause seeking custody. At the initial appearance, the
attorney for the child made an oral motion to dismiss the
petition. Family Court granted the motion and dismissed the

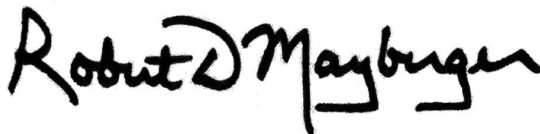
petition without prejudice, prompting this appeal by petitioner.

A proper record on appeal must include any relevant documents and transcripts of the proceedings before the lower court (see CPLR 5526; Clarke v Clarke, 90 AD3d 690, 691 [2011], lv denied 19 NY3d 805 [2012]; Matter of Pratt v Anthony, 30 AD3d 708, 708 [2006]). The transcript of the appearance before Family Court at which the attorney for the child orally moved to dismiss the petition is not included in the record, and no other documentation reveals the grounds for that motion.¹ Moreover, Family Court's order dismissing the petition references "due deliberation" but articulates no basis for dismissal. Accordingly, the record is inadequate to enable this Court to render an informed decision on the merits, and the appeal must be dismissed (see Matter of Butti v Butti, 92 AD3d 781, 782 [2012]; Matter of Pratt v Anthony, 30 AD3d at 708).

Rose, McCarthy and Garry, JJ., concur.

ORDERED that the appeal is dismissed, without costs.

ENTER:



Robert D. Mayberger
Clerk of the Court

¹ Notably, counsel represented at oral argument that his request to the clerk of the Family Court for a transcript of the relevant proceeding went unanswered.