

IN THE SUPREME COURT OF THE STATE OF DELAWARE

LARRY PENNEY, ¹	§
	§
Petitioner Below-	§ No. 546, 2007
Appellant,	§
	§
v.	§
	§ Court Below—Family Court
DIVISION OF CHILD SUPPORT	§ of the State of Delaware,
ENFORCEMENT; KERRY S.	§ in and for New Castle County
LAPENTA; GERRI DANIELS;	§ File Nos. CN00-9345,
AND DANIELLE ADAMS,	§ CN96-06081, and CN93-07151
	§ Petitioner Nos. 07-18533,
Respondents Below-	§ 07-18530, and 07-18536
Appellees.	§

Submitted: January 14, 2008

Decided: April 1, 2008

Before **HOLLAND, BERGER,** and **RIDGELY,** Justices.

ORDER

This 1st day of April, 2008, upon consideration of the appellant's opening brief and the appellee's motion to affirm, it appears to the Court that:

(1) The appellant, Larry Penney, filed this appeal from a Family Court order, dated September 21, 2007, which denied Penney's motion to reopen a Family Court judgment entered on August 21, 2007. The August 21st judgment dismissed Penney's petition for review de novo of a

¹ Pursuant to Supreme Court Rule 7(d), the Court assigned pseudonyms to the parties in this case by order dated October 16, 2007.

Commissioner's order because of Penney's failure to prepay the transcript costs or seek a waiver of those costs, despite being informed that prepayment was necessary in order to avoid dismissal of his petition.

(2) A motion to reopen a judgment is addressed to the sound discretion of the trial court.² After careful consideration of the parties' respective positions on appeal, we find it manifest on the face of appellant's opening brief that the appeal is without merit. The Family Court rules clearly provide that a petitioner seeking to appeal a Commissioner's order must provide a transcript of the proceedings or risk summary dismissal of the appeal.³ Penney unequivocally expressed his intention not to have the transcript prepared based on his belief that it was unnecessary. Under the circumstances, we conclude that the Family Court did not abuse its discretion in denying Penney's motion to reopen the judgment.

NOW, THEREFORE, IT IS ORDERED that the judgment of the Family Court is AFFIRMED.

BY THE COURT:

/s/ Carolyn Berger
Justice

² *Harper v. Harper*, 826 A.2d 293, 297 (Del. 2003)

³ Fam. Ct. Civ. R. 53.1(c), (i) (2008)