

IN THE SUPREME COURT OF THE STATE OF DELAWARE

|                         |   |                             |
|-------------------------|---|-----------------------------|
| JOHN HALL, <sup>1</sup> | § |                             |
|                         | § | No. 5, 2009                 |
| Respondent Below,       | § |                             |
| Appellant,              | § | Court Below—Family Court    |
|                         | § | of the State of Delaware in |
| v.                      | § | and for New Castle County   |
|                         | § |                             |
| ABBY HALL,              | § |                             |
|                         | § |                             |
| Petitioner Below,       | § | File No. CN08-02966         |
| Appellee.               | § |                             |

Submitted: May 15, 2009

Decided: July 6, 2009

Before **STEELE**, Chief Justice, **HOLLAND** and **RIDGELY**, Justices.

**ORDER**

This 6<sup>th</sup> day of July 2009, it appears to the Court that:

(1) The appellant, John Hall, filed a *pro se* appeal from the Family Court's orders of December 3, 2008, that divided the parties' marital property and denied Hall's motion seeking to reargue the parties' divorce. On April 23, 2009, the Clerk issued a notice directing that Hall show cause why the appeal should not be dismissed for his failure to pay the Family Court record preparation fee.

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<sup>1</sup> The caption reflects pseudonyms previously assigned by the Court. Del. Supr. Ct. R. 7(d).

(2) Hall has not filed a response to the notice to show cause.<sup>2</sup> He has, however, filed a document entitled “motion to forward necessary documents.” The Court has deemed the “motion to forward necessary documents” to be Hall’s response to the notice to show cause.

(3) An appeal to the Delaware Supreme Court is considered on the basis of the trial court record.<sup>3</sup> As the party initiating the appeal, the appellant must pay the trial court’s record preparation fee within the time limit imposed by the trial court unless the court waives the fee or other arrangements are made.<sup>4</sup>

(4) Absent an abuse of discretion, the trial court’s denial of waiver of the record preparation fee will not be disturbed by this Court.<sup>5</sup> If the appellant fails to comply with the rule relating to payment of the record preparation fee, any other party may move to dismiss the appeal or the Court may *sua sponte* dismiss the appeal.<sup>6</sup>

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<sup>2</sup> The original notice to show cause sent by certified mail was returned unclaimed. Hall has not filed a response to a second notice that was sent by first class mail on May 1, 2009.

<sup>3</sup> Del. Supr. Ct. R. 9(a).

<sup>4</sup> Del. Supr. Ct. R. 9(aa).

<sup>5</sup> See *Beeghley v. Beeghley*, 2002 WL 1316244 (Del. Supr.) (citing *Brown v. State*, 721 A.2d 1263, 1266 (Del. 1998)).

<sup>6</sup> Del. Supr. Ct. R. 9(aa).

(5) In this case, Hall filed a request in the Family Court for waiver of the record preparation fee. By order dated March 9, 2009, the Family Court denied Hall's request.

(6) Having reviewed the order of March 9, 2009, it appears to the Court that the Family Court was within its discretion to deny Hall's request for waiver of the record preparation fee. Hall's failure thereafter to pay the Family Court record preparation fee requires the dismissal of this appeal.<sup>7</sup>

NOW, THEREFORE, IT IS ORDERED, pursuant to Supreme Court Rules 9(a), (aa) and 29(b), that the appeal is DISMISSED.

BY THE COURT:

/s/ Myron T. Steele  
Chief Justice

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<sup>7</sup> *Elohim v. St. Paul Fire & Marine Ins. Co.*, 2007 WL 773391 (Del. Supr.).