

STATE OF WEST VIRGINIA

At a Regular Term of the Supreme Court of Appeals, continued and held at Charleston, Kanawha County, on April 27, 2023, the following order was made and entered.

SCA Filed: Apr 27 2023  
03:51 PM EDT  
Transaction ID 69911214

*In re* C.C., H.R., and R.K.

No. 22-898

**RULE TO SHOW CAUSE**

On this day came the Court, on its own motion, and proceeded to consider sanctions against counsel for the petitioner M.K., Gary W. Frasher, for his failure to file perfect the appeal by filing a petitioner’s brief and appendix in compliance with the Rules of Appellate Procedure in the above-captioned matter and comply with orders of this Court.

On December 5, 2022, the petitioner filed an order from the Circuit Court of Raleigh County (Case Nos. CC-41-2022-JA-180-B, CC-41-2022-JA-181-B, and CC-41-2022-JA-182-B). By Scheduling Order entered on December 9, 2022, the deadline to perfect the appeal was January 27, 2023. Pursuant to the Court’s February 28, 2023, Amended Scheduling Order, the deadline to perfect the appeal was March 13, 2023. When Mr. Frasher failed to file a petitioner’s brief and appendix, the Court entered a Notice of Intent to Sanction on March 28, 2023, ordering Mr. Frasher to perfect the appeal on or before April 7, 2023. On April 24, 2023, Mr. Frasher submitted a petitioner’s brief and appendix to the Court which was rejected for failing to comply with the Rules of Appellate Procedure. To date, Mr. Frasher has not filed a petitioner’s brief and appendix that comply with the Court’s Rules in this matter.

On April 20, 2023, the West Virginia Department of Health and Human Resources (“DHHR”), by counsel Brittany N. Ryers-Hindbaugh, Assistant Attorney General, and Juliana C. Dotsenko, the children’s guardian ad litem, presented to the Court a joint motion to dismiss the

petitioner's appeal, for the reasons stated. On April 25, 2023, the DHHR filed a motion for enlargement of time to file a respondent's brief.

Upon consideration and review, the Court is of the opinion that a rule in contempt against the petitioner's counsel, Gary W. Frasher, should be awarded. The respondents' motion to dismiss the appeal is refused. The Court defers ruling upon the respondent DHHR's motion for enlargement of time at this time.

It is ORDERED that a rule does issue directed against the petitioner's counsel and the respondent herein, Gary W. Frasher, Esq., returnable before this Court at its courtroom in the City of Charleston, County of Kanawha, on May 9, 2023, at 2:00 p.m. commanding and directing the said respondent to show cause, if any he can, why he should not be held in contempt of this Court for failure to perfect the appeal in the above-captioned matter, unless sooner mooted by filing a petitioner's brief and appendix that fully comply with the Rules of Appellate Procedure.

The Court directs the Clerk of Court to refer the actions of Gary W. Frasher, Esq. in failing to perfect the appeal on behalf of the petitioner, to the Office of Disciplinary Counsel.

It is further ordered that a copy of this order be sent to the Honorable Robert A. Burnside, Jr., Judge.

Service of an attested copy of this order shall constitute sufficient notice of the contents.

A True Copy

Attest: /s/ Edythe Nash Gaiser  
Clerk of Court

