

SUPREME COURT OF THE STATE OF NEW YORK
Appellate Division, Fourth Judicial Department

805

CA 16-02066

PRESENT: WHALEN, P.J., SMITH, CARNI, CURRAN, AND SCUDDER, JJ.

IN THE MATTER OF THE APPLICATION OF JON Z. AND VICTOR Z. FOR THE APPOINTMENT OF A GUARDIAN OF THE PROPERTY AND/OR PERSON OF MARGARET Z., AN ALLEGED INCAPACITATED PERSON.

MEMORANDUM AND ORDER

JON Z., PETITIONER-APPELLANT;

THERESA M. GIROUARD, ESQ., APPOINTED GUARDIAN FOR MARGARET Z., AN ALLEGED INCAPACITATED PERSON, RESPONDENT-RESPONDENT.

JON Z., PETITIONER-APPELLANT PRO SE.

SCHMITT & LASCURETTES, LLC, UTICA (WILLIAM P. SCHMITT OF COUNSEL), FOR RESPONDENT-RESPONDENT.

Appeal from an order of the Supreme Court, Oneida County (Samuel D. Hester, J.), entered October 13, 2016. The order denied the motion of petitioner to compel respondent to provide certain evidence, and for other relief.

It is hereby ORDERED that the order so appealed from is unanimously affirmed without costs.

Memorandum: In this guardianship proceeding, petitioner appeals from an order denying his motion for, among other relief, removal of respondent as guardian of petitioner's incapacitated mother. Supreme Court concluded that the issues raised in petitioner's motion had previously been raised by petitioner and determined by the court in earlier proceedings. We are unable to determine the merits of petitioner's contentions on appeal inasmuch as the 40-page record before us does not contain sufficient information to enable us to determine whether the court properly denied petitioner's motion on that ground. Petitioner, as the appellant, "submitted this appeal on an incomplete record and must suffer the consequences" (*Matter of Santoshia L.*, 202 AD2d 1027, 1028; see *Resetarits Constr. Corp. v City of Niagara Falls*, 133 AD3d 1229, 1229; *Matter of Rodriguez v Ward*, 43 AD3d 640, 641).

Entered: June 16, 2017

Frances E. Cafarell
Clerk of the Court