

Supreme Court of the State of New York
Appellate Division: Second Judicial Department

D12495
Y/hu

_____AD3d_____

Argued - September 22, 2006

ROBERT W. SCHMIDT, J.P.
THOMAS A. ADAMS
MARK C. DILLON
JOSEPH COVELLO, JJ.

2005-01920

DECISION & ORDER

In the Matter of Generosa Ammon, a/k/a Generosa Ammon-Pelosi, a/k/a Generosa Pelosi, deceased.
Gerard J. Sweeney, et al., respondents; Daniel J. Pelosi, appellant.

(File No. 1609 P 2003)

James D. Reddy, P.C., Lindenhurst, N.Y., for appellant.

Manton Sweeney Gallo Reich & Bolz, LLP, Rego Park, N.Y. (Frank A. Bolz III and John L. Wolthoff of counsel), for respondent.

William P. Parkas, Garden City, N.Y., guardian ad litem for Gregory Ammon, and Ilene Sherwyn, Uniondale, N.Y., guardian ad litem for Alexa Ammon, respondents pro se (one brief filed).

In a probate proceeding, Daniel J. Pelosi appeals from an order of the Surrogate's Court, Suffolk County (Czygier, S.), dated January 31, 2005, which granted the petitioner's motion for summary judgment and dismissed his amended answer.

ORDERED that the appeal is dismissed, with costs payable by the appellant personally to the respondents appearing separately and filing separate briefs.

The appeal from the order dated January 31, 2005, must be dismissed because the right of direct appeal therefrom terminated with the entry of a counter-decree of probate in this proceeding on May 2, 2005 (*see Matter of Aho*, 39 NY2d 241, 248). The appeal from that counter-

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MATTER OF AMMON, a/k/a AMMON-PELOSI, a/k/a PELOSI, DECEASED

decree was dismissed by decision and order on motion of this court dated February 10, 2006, for failure to perfect the same in accordance with the rules of this court (*see* 22 NYCRR 670.8[c], [e]).

SCHMIDT, J.P., ADAMS, DILLON and COVELLO, JJ., concur.

2005-01920

DECISION & ORDER ON MOTION

In the Matter of Generosa Ammon, a/k/a Generosa Ammon-Pelosi, a/k/a Generosa Pelosi, deceased.
Gerard J. Sweeney, et al., respondents; Daniel J. Pelosi, appellant.

(File No. 1609 P 2003)

Motion by the respondents on an appeal from an order of the Surrogate's Court, Suffolk County, dated January 31, 2005, *inter alia*, to dismiss the appeal on the ground that the appellant lacks standing to prosecute the appeal. By decision and order on motion of this court dated January 31, 2006, that branch of the motion which was to dismiss the appeal on the ground that the appellant lacks standing was referred to the panel of Justices hearing the appeal for determination upon the argument or submission thereof.

Upon the papers filed in support of the motion, no papers having been filed in opposition or relation thereto, and upon the argument of the appeal, it is

ORDERED that that branch of the motion which was to dismiss the appeal on the ground that the appellant lacks standing is denied as academic (*see Matter of Ammon*, _____ AD3d _____ [decided herewith]).

SCHMIDT, J.P., ADAMS, DILLON and COVELLO, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court