

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

D9604  
C/cf

\_\_\_\_\_AD3d\_\_\_\_\_

Submitted - January 6, 2006

BARRY A. COZIER, J.P.  
FRED T. SANTUCCI  
ROBERT A. SPOLZINO  
PETER B. SKELOS, JJ.

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2004-08188

DECISION & ORDER

In the Matter of Brian H. (Anonymous).  
Administration for Children's Services, petitioner-  
respondent; Jose V. (Anonymous), appellant, et al.,  
respondents.

(Docket Nos. N-01895/02, N-23028/02)

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Michael A. Fiechter, Bellmore, N.Y., for appellant.

Michael A. Cardozo, Corporation Counsel, New York, N.Y. (Pamela Seider Dolgow  
and Suzanne K. Colt of counsel), for petitioner-respondent.

Tamara A. Steckler, New York, N.Y. (Patricia S. Colella of counsel), Law Guardian  
for the Child.

In two related child protective proceedings pursuant to Family Court Act article 10,  
Jose V. appeals from an order of the Family Court, Kings County (Hamill, J.), dated August 31,  
2004, which denied his motion to vacate an order of disposition of the same court dated January 13,  
2004, entered upon his default in appearing at the dispositional hearing, inter alia, placing Jose V.  
under the supervision of the Administration of Children's Services for a period of 12 months,  
awarding him only bi-weekly supervised visitation, and placing the child in the custody of the  
Commissioner of Social Services of Kings County, for a period of one year effective December 11,  
2003.

ORDERED that the order is affirmed, without costs or disbursements.

January 26, 2006

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MATTER OF H. (ANONYMOUS), BRIAN

The Family Court properly denied the appellant's motion to vacate the order of disposition dated January 13, 2004, entered upon his default in appearing at the dispositional hearing. Under the circumstances of this case, the Family Court correctly concluded that the appellant "willfully refused to appear at the hearing" (Family Court Act § 1042; *see Matter of Clifford J.*, 238 AD2d 244).

The appellant's remaining contentions are without merit.

COZIER, J.P., SANTUCCI, SPOLZINO and SKELOS, JJ., concur.

ENTER:

A handwritten signature in cursive script that reads "James Edward Pelzer".

James Edward Pelzer  
Clerk of the Court