

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

D14083
G/gts

_____AD3d_____

Submitted - January 30, 2007

HOWARD MILLER, J.P.
ROBERT A. SPOLZINO
DAVID S. RITTER
ROBERT A. LIFSON, JJ.

2006-01837
2006-01838
2006-01839

DECISION & ORDER

In the Matter of Jose E. Diplan, appellant, v
Morena E. Diplan, respondent.
(Proceeding No. 1)

In the Matter of Morena E. Diplan, respondent,
v Jose E. Diplan, appellant.
(Proceeding No. 2)

(Docket Nos. V-03565-05, V-03566-05,
V-3174-05, V-3175-05, O-2720-04, O-266-05)

Stanley E. Gelzinis, Huntington, N.Y., for appellant.

Robert C. Mitchell, Riverhead, N.Y. (Ethan Halpern of counsel), Law Guardian for
the children.

In related proceedings pursuant to Family Court Act articles 6 and 8, the father appeals from (1) a decision of the Family Court, Suffolk County (Lynaugh, J.), dated January 23, 2006, (2) an order of the same court also dated January 23, 2006, which, after a fact-finding hearing, inter alia, awarded sole custody of the parties' children to the mother with visitation to him, and (3) an order of protection of the same court also dated January 23, 2006, which, inter alia, directed the father to stay away from the mother, her place of employment, and her home, except for court-authorized visitation. Assigned counsel has submitted a brief in accordance with *Anders v California* (386 US 738), in which he moves to be relieved of the assignment to prosecute this appeal.

February 27, 2007

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MATTER OF DIPLAN v DIPLAN

ORDERED that the appeal from the decision is dismissed, as no appeal lies from a decision (*see Schicchi v Green Constr. Corp.*, 100 AD2d 509); and it is further,

ORDERED that the order and the order of protection are affirmed, without costs or disbursements.

We have reviewed the record and agree with the father's assigned counsel that there are no nonfrivolous issues which could be raised on the appeals. Thus, counsel's application for leave to withdraw is granted (*see Anders v California, supra; Matter of Pressley v McGainey*, 34 AD3d 684; *Matter of Medina v Figueroa*, 16 AD3d 420).

MILLER, J.P., SPOLZINO, RITTER and LIFSON, JJ., concur.

ENTER:

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

James Edward Pelzer
Clerk of the Court