

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

D14612
W/gts

_____AD3d_____

Submitted - March 2, 2007

FRED T. SANTUCCI, J.P.
GABRIEL M. KRAUSMAN
ROBERT A. LIFSON
MARK C. DILLON, JJ.

2006-05974

DECISION & ORDER

In the Matter of Anthony P. Venditto, respondent,
v Jennifer R. Davis, appellant.

(Docket Nos. V-04190-00/05)

Foster & Vandenburg, LLP, Riverhead, N.Y. (Frederic C. Foster, John P. Cairns, and Jill Plosky of counsel), for appellant.

James J. O'Rourke & Associates, PLLC, Hauppauge, N.Y., for respondent.

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

In a child custody proceeding pursuant to Family Court Act article 6, the mother appeals, as limited by her brief, from so much of an order of the Family Court, Suffolk County (Lynaugh, J.), dated May 27, 2006, as, after a hearing, awarded custody of the child to the father.

ORDERED that the order is affirmed insofar as appealed from, without costs or disbursements.

The mother contends that the Family Court improvidently exercised its discretion in refusing to grant her an adjournment of the custody hearing until some unspecified point in time so that she could obtain additional evidence. However, "the granting of an adjournment for any purpose is a matter resting within the sound discretion of the trial court" (*Matter of Anthony M.*, 63 NY2d 270, 283; *see Matter of Steven B.*, 6 NY3d 888, 889; *Matter of Sicurella v Embro*, 31 AD3d 651), upon "a balanced consideration of all relevant factors" (*Matter of Sicurella v Embro, supra* at 651).

April 3, 2007

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Here, counsel for the mother failed to make an adequate offer of proof as to the relevance of the evidence he sought to obtain or to demonstrate that the need for the adjournment was not due to a lack of due diligence on his or his client's part (*cf. Matter of Shepard*, 286 AD2d 336, 337; *Romero v City of New York*, 260 AD2d 461).

The mother's remaining contentions are without merit.

SANTUCCI, J.P., KRAUSMAN, LIFSON and DILLON, JJ., concur.

ENTER:

A handwritten signature in black ink, reading "James Edward Pelzer". The signature is written in a cursive, flowing style.

James Edward Pelzer
Clerk of the Court