

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

D15923  
C/mv

STEPHEN G. CRANE, J.P.  
ROBERT A. SPOLZINO  
GABRIEL M. KRAUSMAN  
PETER B. SKELOS, JJ.

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2005-05645  
2005-05646

DECISION & ORDER ON MOTION

In the Matter of Jose Rivera, appellant,  
v Dagnes Echavarria, respondent.

(Docket Nos. V-13848-01, F-30555-04)

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On the court's own motion, it is

ORDERED that its decision and order on motion dated March 5, 2007, in the above-entitled case is recalled and vacated, and the following decision and order on motion is substituted therefor:

Appeals by Jose Rivera from two orders of the Family Court, Kings County, both dated April 4, 2005. By decision and order on motion dated October 25, 2005, this court granted the appellant's motion for a reconstruction hearing with respect to the minutes of a hearing held before the Family Court, Kings County, on January 18, 2005. By order dated June 13, 2006, the Family Court, Kings County, indicated that the hearing of January 18, 2005, could not be reconstructed. By order to show cause dated September 28, 2006, the parties or their attorneys were directed to show cause before this court why an order should or should not be made and entered dismissing the appeal as abandoned. Application by the appellant, in effect, for summary reversal of the orders dated April 4, 2005.

Now, upon the court's own motion, *the papers filed* in response to the order to show cause, *and the papers filed in support of the application*, it is

ORDERED that the motion is *denied; and it is further,*

*ORDERED that the application is granted; and it is further,*

July 17, 2007

MATTER OF RIVERA v ECHAVARRIA

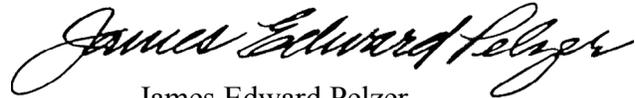
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*ORDERED that the orders are reversed, without costs or disbursements, and the matter is remitted to the Family Court, Kings County, for a new hearing and determination of the petitions.*

*The petitioner appeals from two orders of the Family Court, Kings County, which, after a hearing held on January 18, 2005, dismissed his petitions alleging violation of an order of visitation and seeking modification of an order of support. By decision and order on motion dated October 25, 2005, this court granted the petitioner's motion for a reconstruction hearing with respect to the minutes of the hearing held on January 18, 2005, and referred the matter to the Family Court, Kings County, for a reconstruction hearing. By order dated June 13, 2006, the Family Court, Kings County, indicated that the hearing of January 18, 2005, could not be reconstructed. Under the circumstances of this case, the petitioner is entitled to reversal of the orders, and a new hearing and determination of the petitions.*

CRANE, J.P., SPOLZINO, KRAUSMAN and SKELOS, JJ., concur.

ENTER:



James Edward Pelzer  
Clerk of the Court