

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

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Submitted - September 25, 2007

HOWARD MILLER, J.P.
DAVID S. RITTER
FRED T. SANTUCCI
MARK C. DILLON, JJ.

2006-02195

DECISION & ORDER

In the Matter of Ann P. (Anonymous), petitioner-appellant, v Nicholas C. P. (Anonymous), respondent-respondent; John M. Zenir, nonparty-appellant.

(Docket No. O-9645-04)

Ralph R. Carrieri, Mineola, N.Y., for petitioner-appellant.

John M. Zenir, Mineola, N.Y., Law Guardian for the child, nonparty-appellant pro se.

Jay C. Shoulson, Long Island, N.Y., for respondent-respondent.

In a family offense proceeding pursuant to Family Court Act article 8, the mother and the Law Guardian separately appeal from an order of the Family Court, Nassau County (Foskey, J.), dated February 3, 2006, which, after a hearing, dismissed the petition and vacated a temporary order of protection issued against the father.

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

The record supports the Family Court's determination that the mother failed to prove, by a preponderance of the credible evidence, that the father committed acts which would constitute the offenses of harassment, disorderly conduct, or stalking against the daughter (*see Matter of Patton v Torres*, 38 AD3d 667, 668; *Matter of Thomas v Thomas*, 32 AD3d 521, 521; *Matter of London*

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v Blazer, 2 AD3d 860). The majority of the events relied upon to support the petition occurred three years earlier and were not “relatively contemporaneous” (*Matter of Thomas v Thomas*, 32 AD3d at 521; *Matter of Ashley P.*, 31 AD3d 767, 769; *Swersky v Swersky*, 299 AD2d 540, 541; *Yoba v Yoba*, 183 AD2d 418, 418).

MILLER, J.P., RITTER, SANTUCCI 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