

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

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_____AD3d_____

Argued - January 7, 2008

REINALDO E. RIVERA, J.P.
FRED T. SANTUCCI
JOSEPH COVELLO
RUTH C. BALKIN, JJ.

2006-09547

DECISION & ORDER

In the Matter of Ronald Corbett, Jr., appellant,
v Alverta Rebecca Elliot-Brathwaite,
respondent.

(Docket No. V-10576/05)

Kenneth M. Tuccillo, Hastings-on-Hudson, N.Y., for appellant.

Carol Sherman, Brooklyn, N.Y. (Janet Neustaetter of counsel), Law Guardian for the child.

In a child custody proceeding pursuant to Family Court Act article 6, the father appeals from an order of the Family Court, Kings County (Grosvenor, J.), dated September 28, 2006, which, inter alia, in effect, directed that any custody proceeding concerning the subject child take place in the Family Court, Queens County, in which a neglect proceeding concerning the subject child was pending against the mother, and dismissed the petition.

ORDERED that the appeal is dismissed as academic, without costs or disbursements.

During the pendency of the appeal, the father commenced a custody proceeding in the Family Court, Queens County, seeking, as he did in the instant proceeding, custody of the subject child. Under the particular circumstances of this case, the father's appeal must be dismissed as academic (*see Matter of Siberio v Siberio*, 208 AD2d 994).

RIVERA, J.P., SANTUCCI, COVELLO and BALKIN, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court

February 19, 2008

MATTER OF CORBETT v ELLIOT-BRATHWAITE