

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

D18443
W/prt

_____AD3d_____

Argued - February 8, 2008

WILLIAM F. MASTRO, J.P.
JOSEPH COVELLO
RANDALL T. ENG
ARIEL E. BELEN, JJ.

2006-11012
2007-02639

DECISION & ORDER

In the Matter of Richard Simpson, appellant,
v Beata Ptaszynska, respondent.

(Docket No. V-02772-00)

Richard L. Herzfeld, New York, N.Y. (Bahn Herzfeld & Multer of counsel), for appellant.

Carol Sherman, Brooklyn, N.Y. (Barbara H. Dildine of counsel), Law Guardian for the child.

In a custody and visitation proceeding pursuant to Family Court Act article 6, the father appeals, as limited by his brief, from (1) so much of an order of the Family Court, Kings County (O'Shea, J.), dated October 16, 2006, as denied that branch of his motion which was, in effect, for permission to file a petition for change of custody, and (2) stated portions of an order of the same court dated December 11, 2006, which, without a hearing, inter alia, set a visitation schedule for him with the subject child.

ORDERED that the orders are affirmed insofar as appealed from, without costs or disbursements.

The Family Court properly denied that branch of the father's motion which was, in effect, for permission to file a petition for a change of custody since the father failed to demonstrate nonfrivolous grounds for such relief (*see Matter of Simpson v Ptaszynska*, 41 AD3d 608).

March 11, 2008

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Contrary to the father's contentions, the Family Court was not required to hold a hearing regarding visitation where he did not request a hearing, and the court had sufficient information to enable it to determine the best interests of the subject child (*see Matter of Razo v Leyva*, 3 AD3d 571, 571; *Matter of Vangas v Ladas*, 259 AD2d 755, 755; *Matter of Goldman v Goldman*, 201 AD2d 860, 862; *Kuleszo v Kuleszo*, 59 AD2d 1059, 1060).

The father's remaining contentions are without merit.

MASTRO, J.P., COVELLO, ENG and BELEN, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court