

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

D19257  
W/hu

\_\_\_\_\_AD3d\_\_\_\_\_

Argued - January 3, 2008

WILLIAM F. MASTRO, J.P.  
STEVEN W. FISHER  
MARK C. DILLON  
WILLIAM E. McCARTHY, JJ.

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2007-03365

DECISION & ORDER

In the Matter of Vanessa D. (Anonymous), appellant.  
Deborah T. (Anonymous), petitioner.

(Docket No. G-7010-07)

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Jason A. Cade, New York, N.Y., and Zabrina Aleguire, New York, N.Y., for appellant (one brief filed).

Michael A. Cardozo, Corporation Counsel, New York, N.Y. (Leonard Koerner and Alan Beckoff of counsel), for amicus curiae Administration for Children's Services of the City of New York.

Karen Freedman, New York, N.Y. (Michael Scherz and Myra Elgaby of counsel), for amici curiae Lawyers for Children, Inc., The Legal Aid Society of New York, Catholic Charities Immigration Services, St. John's Law School Refugee and Immigrant Rights Clinic, and U.S. Committee for Refugees and Immigrants Urban Justice Center.

In a guardianship proceeding pursuant to Family Court Act article 6, Vanessa D. appeals, by permission, from an order of the Family Court, Kings County (Hepner, J.), dated March 14, 2007, which denied the petition, inter alia, for a determination of her eligibility to be considered a special immigrant juvenile pursuant to 8 USC § 1101(a)(27)(J) and 8 CFR § 204.11, based upon lack of subject matter jurisdiction.

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

The instant appeal must be dismissed, as the subject child is no longer a "minor"

May 13, 2008

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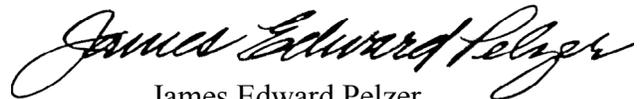
MATTER OF D. (ANONYMOUS), VANESSA

subject to the Family Court's jurisdiction (*see* Family Ct Act § 119[c]; § 661; SCPA art 17; *Matter of Zaim R.*, 43 AD3d 824; *Matter of Luis A.-S.*, 33 AD3d 793, 794). Although SCPA 1707(2) was amended in 2006 to permit the extension, under certain circumstances, of a guardian's term of office until the subject child's 21st birthday (*see* L 2006, ch 518, § 5 [eff. August 16, 2006]), that additional grant of jurisdiction does not extend to the Family Court in guardianship proceedings commenced pursuant to Family Court Act article 6 (*see* Family Ct Act § 119[c]; § 661).

Even if the Family Court initially erred in denying the petition on the ground of lack of subject matter jurisdiction (*see Matter of Antowa McD.*, \_\_\_\_\_AD3d\_\_\_\_\_, 2008 NY Slip Op 03690 [1st Dept 2008]), we are precluded from remitting the matter to the Family Court for a determination of the petition on the merits, as the Family Court no longer has jurisdiction over the subject child. Accordingly, the appeal must be dismissed (*see Matter of Zaim R.*, 43 AD3d 824; *Matter of Luis A.-S.*, 33 AD3d at 794).

MASTRO, J.P., FISHER, DILLON and McCARTHY, JJ., concur.

ENTER:



James Edward Pelzer  
Clerk of the Court