

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

D19940
C/cb

_____AD3d_____

Argued - June 6, 2008

REINALDO E. RIVERA, J.P.
ROBERT A. LIFSON
JOSEPH COVELLO
RUTH C. BALKIN, JJ.

2007-04621

DECISION & ORDER

In the Matter of Milagros Mercado, respondent,
v Zet Perez, appellant.

In the Matter of Zet Perez, appellant, v Milagros
Mercado, respondent,

(Docket Nos. V-07393-02, V-07394-02)

Peter Dailey, New York, N.Y., for appellant.

Sergio Villaverde, New York, N.Y., for respondent.

Barbara H. Dildine, Brooklyn, N.Y. (Janet Neustaetter of counsel), attorney for the
child.

In related child custody and visitation proceedings pursuant to Family Court Act
article 6, the father appeals from an order of the Family Court, Kings County (Pearl, J.), dated
February 27, 2007, which, after a hearing, inter alia, granted the mother permission to relocate to
Florida with the parties' children and denied his petition for a change of custody of the parties'
children to him.

ORDERED that the order is affirmed, with costs.

The father contends that the Family Court erred in granting the mother permission to
relocate to Florida with the parties' two children, and in denying his petition for a change of custody

July 29, 2008

Page 1.

MATTER OF MERCADO v PEREZ
MATTER OF PEREZ v MERCADO

of the parties' children to him. The mother and the attorney for the children contend that continuing custody with the mother and permitting her to relocate to Florida with the children was in the best interests of the children.

The Family Court, which saw and heard the witnesses, had a sound and substantial basis for concluding that the best interests of the children will be advanced by permitting the mother to relocate with them to Florida (*see Matter of Tropea v Tropea*, 87 NY2d 727). Moreover, we agree with the Family Court that the father failed to establish that there was a change in circumstances such that a change in custody was necessary to ensure the best interests of the children (*see Eschbach v Eschbach*, 56 NY2d 167; *Matter of Guerra v Balistreri*, 49 AD3d 646).

RIVERA, J.P., LIFSON, COVELLO and BALKIN, 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