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

D20038
G/hu

_____AD3d_____ Submitted - June 16, 2008

REINALDO E. RIVERA, J.P.
ROBERT A. LIFSON
FRED T. SANTUCCI
HOWARD MILLER, JJ.

2007-06671 DECISION & ORDER

In the Matter of Amber D. C. (Anonymous).
Administration for Children's Services, et al.,
respondents; Angelica Marie C. (Anonymous),
et al., appellants.

(Docket No. N-05861-02)

Rhonda R. Weir, Brooklyn, N.Y., for appellant Angelica Marie C.

Elliot Green, Brooklyn, N.Y., for appellant John R.

Michael A. Cardozo, Corporation Counsel, New York, N.Y. (Larry A. Sonnenshein and Mordecai Newman of counsel), for respondent.

Steven Banks, New York, N.Y. (Tamara A. Steckler and Marcia Egger of counsel), attorney for the child.

In a child protective proceeding pursuant to Family Court Act article 10, the father and the mother separately appeal from an order of the Family Court, Kings County (Lim, J.), dated June 15, 2007, which denied their applications to continue a hearing on the issue of visitation with the subject child and, in effect, continued the temporary suspension of their visitation with the subject child as directed in an order to show cause dated June 22, 2006.

ORDERED that the order is modified, on the law, by deleting the provision thereof denying the applications to continue a hearing on the issue of visitation with the subject child, and

substituting therefor a provision granting the applications; as so modified, the order is affirmed, without costs or disbursements, and the matter is remitted to the Family Court, Kings County, for the completion of a hearing on the issue of visitation with the subject child; and it is further,

ORDERED that pending further order of the Family Court, Kings County, the temporary suspension of visitation between the appellants and the subject child as directed in the order to show cause dated June 22, 2006, shall remain in effect.

"When adjudicating visitation rights, the court's first concern is 'the welfare and the interests of the children'" (*McGrath v D'Angio-McGrath,* 42 AD3d 440, 441, quoting *Matter of Lincoln v Lincoln,* 24 NY2d 270, 272; *see Matter of Nikolic v Ingrassia,* 47 AD3d 819, 821; *Lew v Lew,* 45 AD3d 648, 649). A hearing on the issue of visitation is necessary. However, in the interim and until further order of the Family Court, Kings County, we deem it appropriate to continue the court's temporary suspension of visitation between the appellants and the subject child.

The parties' remaining contentions are without merit.

RIVERA, J.P., LIFSON, SANTUCCI and MILLER, JJ., concur.

ENTER:

James Edward Pelzer
Clerk of the Court