

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

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Submitted - June 20, 2008

STEVEN W. FISHER, J.P.
JOSEPH COVELLO
DANIEL D. ANGIOLILLO
RUTH C. BALKIN, JJ.

2007-06443
2007-06444

DECISION & ORDER

In the Matter of Denise McHarris, appellant, v
Administration for Children's Services, et al.,
respondents.

(Docket Nos. V-23878-06, V-23788-06,
V-04228-07, V-04229-07)

Dawn M. Shammas, Jamaica, N.Y., for appellant.

Michael A. Cardozo, Corporation Counsel, New York, N.Y. (Leonard Koerner and
Pamela Seider Dolgow of counsel), for respondent Administration for Children's
Services.

Magovern & Sclafani, New York, N.Y. (Marion C. Perry and Frederick Magovern
of counsel), for respondent Adrienne Branch.

Carrieri & Carrieri, P.C., Mineola, N.Y. (Ralph R. Carrieri of counsel), for respondent
Little Flower Children and Family Services.

Albino J. Testani, Jamaica, N.Y., attorney for the children.

In related proceedings pursuant to Family Court Act article 6, the mother's cousin
appeals from (1) an order of the Family Court, Queens County (Anixiadis, R.), dated June 14, 2007,

July 29, 2008

Page 1.

MATTER OF McHARRIS v ADMINISTRATION FOR CHILDREN'S SERVICES

which, without a hearing, denied her petition for custody of the subject children, and (2) an order of the same court dated June 29, 2007, which, without a hearing, denied her petition for visitation with the subject children.

ORDERED that the orders are affirmed, without costs or disbursements.

The subject children have been living in foster care since June 2003. Parental rights were terminated and they were freed for adoption in February 2006. In December 2006, the appellant, the cousin of the mother of the subject children, petitioned for custody of the children. In February 2007, the appellant petitioned for visitation with the children.

The Family Court properly denied the petition for custody without a hearing, “as the appellant’s recourse was to seek adoption, not mere custody,” of the children (*Matter of Snypes v Administration for Children’s Servs.* 308 AD2d 593; see *Matter of Patience B. v Administration for Children’s Servs.*, 306 AD2d 473; *Matter of Irons v Ford*, 289 AD2d 576, 577; *Matter of Annie H.*, 207 AD2d 788, 789; Social Services Law § 384-b [11]). The Family Court also properly denied the petition for visitation without a hearing, since parental rights had already been terminated and the children had been freed for adoption upon the termination of parental rights, and upon the placement of the subject children into a pre-adoptive home, the legislature clearly limited the right to seek visitation to noncustodial parents, grandparents, and siblings. Thus, the appellant, as the mother’s cousin, lacked standing to petition the Family Court for visitation with them (see *Matter of Jessica F.*, 7 AD3d 708, 710; *Matter of Katrina E.*, 223 AD2d 363; Family Ct Act § 1081; Domestic Relations Law §§ 71, 72).

FISHER, J.P., COVELLO, ANGIOLILLO and BALKIN, JJ., concur.

ENTER:


James Edward Pelzer
Clerk of the Court