

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

D23737
Y/hu

_____AD3d_____

Submitted - May 19, 2009

A. GAIL PRUDENTI, P.J.
STEVEN W. FISHER
HOWARD MILLER
PLUMMER E. LOTT, JJ.

2008-05137

DECISION & ORDER

In the Matter of Michael J. O'Connor, on behalf
of Tanya Daley and Alex Daley, appellant, v
Winifred M. Rose, et al., respondents.

(Docket No. V-5651-06, V-5652-06)

Carol Kahn, New York, N.Y., attorney for the children.

Kent A. Pritchard, Jr., for respondent Brian Daley (no brief filed).

In a child custody and visitation proceeding pursuant to Family Court Act article 6, Michael J. O'Connor, on behalf of Tanya Daley and Alex Daley, appeals, as limited by the brief and by a letter dated March 9, 2009, from so much of an order of the Family Court, Dutchess County (Sammarco, J.), dated March 26, 2008, as, without a hearing, granted that branch of the mother's motion which was to dismiss that branch of the petition which was to modify a prior custody order of the same court dated May 30, 2007, awarding the parents, upon their consent, joint legal custody of the subject children, so as to award the father sole legal custody of the children.

ORDERED that the order dated March 26, 2008, is affirmed insofar as appealed from, without costs or disbursements.

The Family Court properly granted, without a hearing, that branch of the mother's motion which was to dismiss that branch of the petition brought by Michael J. O'Connor, the original

June 30, 2009

Page 1.

MATTER OF O'CONNOR, on behalf of DALEY v ROSE

attorney for the children, which was to modify a prior consent order of the same court dated May 30, 2007, providing for joint legal custody of the subject children, so as to award sole legal custody for the father (*see Matter of Jackson v Ganji*, 277 AD2d 383; *Teuschler v Teuschler*, 242 AD2d 289).

PRUDENTI, P.J., FISHER, MILLER and LOTT, 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