

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

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Submitted - June 18, 2009

REINALDO E. RIVERA, J.P.  
ANITA R. FLORIO  
THOMAS A. DICKERSON  
LEONARD B. AUSTIN, JJ.

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2008-08118

DECISION & ORDER

In the Matter of Luke (Anonymous).  
Florence C. (Anonymous), respondent; Victoria  
M. (Anonymous), appellant.

(Docket No. A-6250-07)

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Salvatore C. Adamo, New York, N.Y., for appellant.

Gary E. Lane, Poughkeepsie, N.Y., for respondent.

Norbert H. Brown, Jr., Poughkeepsie, N.Y., attorney for the child.

In an adoption proceeding pursuant to Domestic Relations Law Article 7, the mother appeals from an order of the Family Court, Dutchess County (Forman, J.), dated July 28, 2008, which, after a hearing, determined that she abandoned the subject child and that the adoption of the child could proceed without her consent.

ORDERED that the order is affirmed, without costs and disbursements.

The Family Court's determination that the mother's consent to adoption was not required is supported by clear and convincing evidence of her abandonment of the subject child (*see* Domestic Relations Law § 111 [2][a]; *Matter of Corey L. v Martin L.*, 45 NY2d 383, 391; *Matter of Elizabeth Susanna R.*, 11 AD3d 619, 620; *Matter of Kimberly Y.*, 9 AD3d 412, 412). Although the mother had been awarded supervised visitation, she failed to visit with the child or to maintain any meaningful contact with the child by telephone, failed to communicate with his legal custodian, and failed to contribute to the child's support during the six months prior to the filing of the petition. The

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fact that there was an order of protection against the mother did not excuse her from maintaining contact with the child (*see Matter of Dominique P.*, 24 AD3d 335, 336; *Matter of Felix M.*, 9 AD3d 432, 433; *Matter of Oscar L.*, 8 AD3d 569, 569). Moreover, her unsupported assertion that she was unable to afford the cost of supervised visitation did not excuse her failure to maintain regular contact with the child.

RIVERA, J.P., FLORIO, DICKERSON and AUSTIN, 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