

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

D24893  
Y/hu

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Submitted - October 5, 2009

STEVEN W. FISHER, J.P.  
JOSEPH COVELLO  
THOMAS A. DICKERSON  
PLUMMER E. LOTT, JJ.

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2008-07652

DECISION & ORDER

In the Matter of Shawn Smith, appellant, v Teresa  
Roberts, respondent.

(Docket No. V-22578-06)

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Peter C. Lomtevas, P.C., Ozone Park, N.Y., for appellant.

Robert Marinelli, Brooklyn, N.Y., for respondent.

John J. Marotta, Douglaston, N.Y., attorney for the child.

In a visitation proceeding pursuant to Family Court Act article 6, the father appeals, as limited by his brief, from so much of an order of the Family Court, Queens County (Negron, Ct. Atty. Ref.), dated July 24, 2008, as, after a hearing, granted his petition for visitation only to the extent of directing therapeutic supervised visitation.

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

“The determination of whether visitation should be supervised is a matter left to Family Court's sound discretion . . . and its findings, to which deference is to be accorded, will not be disturbed on appeal unless they lack a sound basis in the record” (*Matter of Rho v Rho*, 19 AD3d 605, 606, quoting *Matter of Custer v Slater*, 2 AD3d 1227, 1228; see *Matter of Elnatanova v Administration for Children's Servs.*, 34 AD3d 802, 803). Here, the Family Court's determination

November 4, 2009

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that supervised therapeutic visitation would be in the child's best interests has a sound and substantial basis in the record.

FISHER, J.P., COVELLO, DICKERSON and LOTT, JJ., concur.

ENTER:

A handwritten signature in black ink, reading "James Edward Pelzer". The signature is written in a cursive style with a large, prominent initial "J".

James Edward Pelzer  
Clerk of the Court