

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

D26561
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_____AD3d_____

Submitted - December 4, 2009

WILLIAM F. MASTRO, J.P.
STEVEN W. FISHER
ARIEL E. BELEN
LEONARD B. AUSTIN, JJ.

2009-02245

DECISION & ORDER

In the Matter of Antoinette Bryant, appellant,
v Leila Blackman, et al., respondents.

(Docket Nos. V-10124-08, V-10125-08, V-10128-08,
V-10129-08)

Susan Argento Ferlauto, Thornwood, N.Y., for appellant.

Stephen P. Gold, White Plains, N.Y., for respondent Theodore Pugh.

Robert D. Siano, White Plains, N.Y., attorney for the children.

In related custody and visitation proceedings pursuant to Family Court Act article 6, the maternal grandmother appeals from an order of the Family Court, Westchester County (Horowitz, J.), entered January 22, 2009, which dismissed the petitions.

ORDERED that the appeal is dismissed as academic, without costs or disbursements.

The petitioner grandmother filed petitions in August 2008 for custody and visitation of her two grandchildren, who had been in the physical custody of their mother, the petitioner's daughter, but were about to move with their father to Egypt. The Family Court dismissed the petitions, and the petitioner appeals. While this appeal has been pending, the children have returned from Egypt and are now in their mother's custody.

Under the circumstances, the underlying basis of the grandmother's petitions, that her two grandchildren, who had been in the physical custody of their mother, the petitioner's daughter,

were about to live with their father in Egypt, has been rendered academic, requiring dismissal of the appeal (see *Matter of Hearst Corp. v Clyne*, 50 NY2d 707, 713-714; *Matter of Gonzalez v Gonzalez*, 57 AD3d 896, 897).

MASTRO, J.P., FISHER, BELEN and AUSTIN, JJ., concur.

ENTER:

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

James Edward Pelzer
Clerk of the Court