

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

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Submitted - October 28, 2010

REINALDO E. RIVERA, J.P.
DANIEL D. ANGIOLILLO
SHERI S. ROMAN
SANDRA L. SGROI, JJ.

2010-02677

DECISION & ORDER

In the Matter of Pamela Kalkstein, appellant, v Joel Rist, respondent-respondent; Theresa M. Daniele, attorney for the child, nonparty-respondent.

(Docket No. V-13994-09)

John B. Cherico, White Plains, N.Y. (Eric G. Fendt of counsel), for appellant.

J. Henry Neale, Jr., White Plains, N.Y., for respondent-respondent.

Theresa M. Daniele, White Plains, N.Y., attorney for the child, nonparty-respondent pro se.

In a proceeding pursuant to Family Court Act article 6 for grandparent visitation, the grandmother appeals from an order of the Family Court, Westchester County (Klein, J.), entered February 22, 2010, which, upon granting the motion of the attorney for the child, in effect, to dismiss the proceeding, in effect, dismissed the proceeding.

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

“To be afforded standing to seek grandparental visitation over the objection of a biological parent, the petitioning grandparent must establish an existing relationship with the grandchild, or sufficient efforts to establish one that have been unjustifiably frustrated by the parent. Only after such a favorable showing of the equities has been made will the court, considering all relevant facts and circumstances, determine whether the application deserves judicial intervention” (*Matter of Canales v Aulet*, 295 AD2d 507, 507; *see* Domestic Relations Law § 72; *Matter of Emanuel S. v Joseph E.*, 78 NY2d 178, 181).

November 16, 2010

MATTER OF KALKSTEIN v RIST

Page 1.

Here, the grandmother failed to show any basis for judicial intervention at this time.

RIVERA, J.P., ANGIOLILLO, ROMAN and SGROI, JJ., concur.

ENTER:

A handwritten signature in black ink that reads "Matthew G. Kiernan". The signature is written in a cursive, slightly slanted style.

Matthew G. Kiernan
Clerk of the Court