

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

D29077
Y/hu

_____AD3d_____

Submitted - October 29, 2010

JOSEPH COVELLO, J.P.
THOMAS A. DICKERSON
ARIEL E. BELEN
PLUMMER E. LOTT, JJ.

2009-07942

DECISION & ORDER

In the Matter of Dana E. Hicks, appellant, v James R.
Yasus, respondent.

(Docket No. V-2210-06)

Rhonda R. Weir, Brooklyn, N.Y., for appellant.

Amy L. Colvin, Huntington, N.Y., for respondent.

Adrienne Flipse Hausch, Mineola, N.Y., attorney for the children.

In a proceeding pursuant to Family Court Act article 6, the mother appeals from an order of the Family Court, Nassau County (Singer, J.), dated July 15, 2009, which, after a hearing, dismissed her petition alleging that the father violated certain provisions of a custody and visitation order of the same court dated June 23, 2008.

ORDERED that the order dated July 15, 2009, is affirmed, without costs or disbursements.

The record supports the Family Court's determination that the father had violated the prior custody and visitation order by failing to obtain the mother's consent to a medical decision concerning their daughter, but that the violation was not willful. Moreover, the Family Court's determination to dismiss the petition based on the lack of willfulness of the violation was a proper exercise of discretion under the circumstances (*see Matter of Pignataro v Davis*, 8 AD3d 487; *Matter of Wright v LaRose*, 271 AD2d 615).

November 16, 2010

Page 1.

MATTER OF HICKS v YASUS

The mother's remaining contention is without merit.

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

ENTER:


Matthew G. Kiernan
Clerk of the Court