

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

D29263
G/kmb

_____AD3d_____

Submitted - November 8, 2010

REINALDO E. RIVERA, J.P.
JOHN M. LEVENTHAL
L. PRISCILLA HALL
SHERI S. ROMAN, JJ.

2010-04809

DECISION & ORDER

In the Matter of Philip K. (Anonymous), appellant,
v Thervey B. (Anonymous), respondent.

(Docket No. P-255-07)

Philip K., Staten Island, N.Y., appellant pro se.

In a paternity proceeding pursuant to Family Court Act article 5, the petitioner appeals from an order of the Family Court, Richmond County (McElrath, J.), dated March 18, 2010, which denied his objections to an order of the same court (Hickey, S.M.), dated October 14, 2009, made after a hearing, dismissing the petition.

ORDERED that the order dated March 18, 2010, is affirmed, without costs or disbursements.

The Family Court did not improvidently exercise its discretion or violate the petitioner's due process rights when it denied his request for an additional DNA test (*see* Family Ct Act § 532[a]; *Matter of Valrie Patricia L. v Levi L.*, 43 AD3d 468).

Moreover, the petitioner was afforded ample opportunity to present his case and to obtain an expert in order to challenge the subject "Genetic Test." Under the circumstances of this case, the Family Court's decision to deny any further adjournments was not an improvident exercise of discretion (*see Matter of Steven B.*, 6 NY3d 888, 889; *Matter of Ciccone v Ciccone*, 73 AD3d 1052, 1052-1053).

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MATTER OF K. (ANONYMOUS) v B. (ANONYMOUS)

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The petitioner's remaining contentions are without merit.

RIVERA, J.P., LEVENTHAL, HALL and ROMAN, 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