

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

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Argued - March 8, 2011

JOSEPH COVELLO, J.P.  
L. PRISCILLA HALL  
PLUMMER E. LOTT  
JEFFREY A. COHEN, JJ.

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2010-02782

DECISION & ORDER

In the Matter of Leonardo Antonio V. (Anonymous),  
appellant, v Estate of Joanna B. (Anonymous),  
respondent.

(Docket No. P-6646-09)

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Judith Ellen Stone, Merrick, N.Y., for appellant.

Frederick K. Brewington, Hempstead, N.Y. (Valerie M. Cartright of counsel), for  
respondent.

James E. Flood, Jr., Massapequa, N.Y., attorney for the child.

In a paternity proceeding pursuant to Family Court Act article 5, the putative father Leonardo Antonio V. appeals from an order of the Family Court, Nassau County (Eisman, J.), dated January 27, 2010, which, without a hearing, and upon granting the motion of the attorney for the child to dismiss the petition on the ground of equitable estoppel, dismissed the petition.

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

The Family Court properly dismissed the petition based on equitable estoppel. The paramount concern in applying equitable estoppel in paternity cases is the best interests of the subject child (*see Matter of Shondel J. v Mark D.*, 7 NY3d 320, 326; *Matter of Juan A. v Rosemarie N.*, 55 AD3d 827; *Matter of Antonio H.*, 51 AD3d 1022). Here, the petitioner commenced this proceeding after he had been arrested and charged with murdering the subject child's mother. The petitioner was subsequently convicted, inter alia, of murder in the first degree and sentenced to life in prison without

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the possibility of parole. The evidence established that the six-year old subject child had a relationship with a person identified by her deceased mother as her biological father. Accordingly, the petitioner failed to identify any benefit that would accrue to the subject child if the petition were granted (*see Matter of Willie W. v Magdalena D.*, 78 AD3d 958; *see also Matter of Ruth W. v Lewis F.*, 11 AD3d 627).

Since the Family Court was presented with sufficient information to make a determination as to the subject child's best interests, the Family Court properly granted the motion of the attorney for the child to dismiss the petition on the ground of equitable estoppel without conducting a hearing (*see Matter of Maurice T. v Mark P.*, 23 AD3d 567; *Matter of Griffin v Marshall*, 294 AD2d 438).

COVELLO, J.P., HALL, LOTT and COHEN, 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