

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

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_____AD3d_____

Submitted - June 19, 2012

DANIEL D. ANGIOLILLO, J.P.
THOMAS A. DICKERSON
ARIEL E. BELEN
CHERYL E. CHAMBERS, JJ.

2011-04919

DECISION & ORDER

In the Matter of Alexandra D. (Anonymous), etc., et al.,
appellants, v Julianna Santos, et al., respondents.

(Docket No. V-3317-11)

Ralph R. Carrieri, Mineola, N.Y., for appellants.

Michael Kaszubski, P.C., Massapequa, N.Y., for respondent Julianna Santos.

Debra Bloom, Plainview, N.Y., attorney for nonparty child Jean Matthew D.

In a sibling visitation proceeding pursuant to Family Court Act article 6, Alexandra D. and Natalie D. appeal from an order of the Family Court, Nassau County (Stack, J.H.O.), dated April 13, 2011, which, in effect, denied their petition and dismissed the proceeding for lack of standing.

ORDERED that the order is reversed, on the law, with costs, the petition is reinstated, and the matter is remitted to the Family Court, Nassau County, for further proceedings on the petition in accordance herewith.

Pursuant to Domestic Relations Law § 71, a sibling may commence a proceeding to seek visitation with a whole or half sibling who is under the care, custody, and control of a parent or other person or party. Where the sibling seeking such relief is a minor, “a proper person” may seek such relief on his or her behalf (Domestic Relations Law § 71). Contrary to the Family Court’s determination, the petitioners at bar, who are seeking visitation with their half brother, have standing to commence this proceeding (*id.*; see *State ex rel. Noonan v Noonan*, 145 Misc 2d 638, 641). Moreover, the petitioners’ attorney was a “proper person” to commence this proceeding on their

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behalf (Domestic Relations Law § 71; *see* Family Ct Act § 241; 22 NYCRR 7.2[d][2]; *Matter of Cocose v Diane B.*, 8 Misc 3d 1020[A], 2005 NY Slip Op 51203[U] [2005]).

Accordingly, the Family Court erred by, in effect, denying the petition and dismissing the proceeding for lack of standing.

ANGIOLILLO, J.P., DICKERSON, BELEN and CHAMBERS, JJ., concur.

ENTER:


Aprilanne Agostino
Clerk of the Court