

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

M78164
S/sl

PETER B. SKELOS, J.P.
ROBERT A. LIFSON
FRED T. SANTUCCI
EDWARD D. CARNI, JJ.

2008-09833

DECISION & ORDER ON MOTION

In the Matter of Maureen Toohey, respondent,
v Bruce Herzog, appellant.

(Index No. F-00538-06)

Appeal by Bruce Herzog from an order of the Family Court, Putnam County, dated September 9, 2008.

Now, on the court's own motion, it is

ORDERED that the appeal is dismissed, without costs or disbursements, on the ground that no appeal lies from the order dated September 9, 2008, until confirmed by a judge of the Family Court (*see* Family Ct Act § 439[a]; *Matter of Roth v Bowman*, 25 AD2d 521).

SKELOS, J.P., LIFSON, SANTUCCI and CARNI, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court

November 6, 2008

MATTER OF TOOHEY v HERZOG