

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

M90722  
E/sl

ANITA R. FLORIO, J.P.  
HOWARD MILLER  
RUTH C. BALKIN  
LEONARD B. AUSTIN, JJ.

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2009-06774, 2009-06775

DECISION & ORDER ON MOTION

In the Matter of Devona Smythe, petitioner,  
v Aaron Worley, respondent-respondent;  
Alison Hudspeth, nonparty-appellant.

(Docket No. U-15292/06)

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Motion by the nonparty-appellant for leave to appeal to this court from a decision of the Family Court, Kings County, dated June 23, 2009, and an order of the same court dated July 14, 2009, and to stay enforcement of the decision and order pending hearing and determination of the appeals.

Upon the papers filed in support of the motion and the papers filed in opposition and relation thereto, it is

ORDERED that on the court's own motion, the appeal purportedly taken as of right from the decision is dismissed, without costs or disbursements, on the ground that no appeal lies from a decision (*see* Family Ct Act § 1112; *Schicchi v J.A. Green Constr. Co.*, 100 AD2d 509); and it is further,

ORDERED that the branch of the motion which is for leave to appeal from the decision dated June 23, 2009 (Appellate Division Docket No. 2009-06774), is denied as academic; and it is further,

ORDERED that the branch of the motion which is for leave to appeal from the order dated July 14, 2009 (Appellate Division Docket No. 2009-06775), is granted; and it is further,

August 12, 2009

MATTER OF SMYTHE v WORLEY

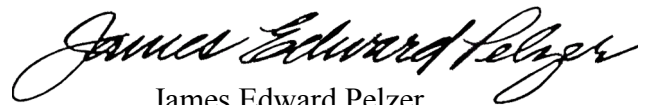
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ORDERED that the branch of the motion which is to stay enforcement of the order is granted to the extent that enforcement of the order dated July 14, 2009, is stayed pending hearing and determination of the appeal therefrom on condition that the appeal is perfected on or before September 29, 2009, and that branch of the motion is otherwise denied; and it is further,

ORDERED that in the event the appeal is not perfected on or before September 29, 2009, the court, on its own motion, may vacate the stay, or the respondent-respondent may move to vacate the stay, on three days notice.

FLORIO, J.P., MILLER, BALKIN and AUSTIN, JJ., concur.

ENTER:

A handwritten signature in black ink, reading "James Edward Pelzer". The signature is written in a cursive, flowing style.

James Edward Pelzer  
Clerk of the Court