

State of New York
Supreme Court, Appellate Division
Third Judicial Department

Decided and Entered: June 4, 2009

504780B

In the Matter of DANIEL X.,
an Adopted Child.

BRIDGETE W.,

Appellant;

MEMORANDUM AND ORDER

THOMAS GG. et al.,

Respondents.

Calendar Date: April 29, 2009

Before: Cardona, P.J., Peters, Lahtinen, Kane and Garry, JJ.

Theresa M. Suozzi, Saratoga Springs, for appellant.

Cardona, P.J.

Appeal from an order of the Family Court of Saratoga County (Hall, J.), entered March 24, 2008, which dismissed petitioner's application, in a proceeding pursuant to Family Ct Act article 6, for violation of an order.

Petitioner, the biological mother of Daniel X. (born in 1994), commenced this proceeding in March 2008 alleging that Daniel's adoptive parents violated the terms of the 1998 judicial surrender by denying her visitation with that child. Family Court, noting no appearance by either party, dismissed petitioner's application for lack of jurisdiction and this appeal ensued.¹

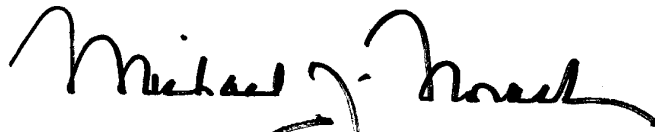
¹ Petitioner commenced a similar proceeding in March 2008 regarding her son Stephen X. (born in 1989), which Family Court also dismissed for lack of jurisdiction and, upon appeal, this

A biological parent may seek to enforce the conditions of a judicial surrender by filing a petition in Family Court (see Social Services Law § 383-c). Here, Family Court did not specify in the order the jurisdictional basis – subject matter or personal – for dismissal. In any event, as there was no appearance by petitioner and, as this record does not demonstrate that service upon respondents was effectuated in order for personal jurisdiction to have been attained, we do not disagree with the dismissal of the petition.

Peters, Lahtinen, Kane and Garry, JJ., concur.

ORDERED that the order is affirmed, without costs.

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Michael J. Novack
Clerk of the Court

Court affirmed (Matter of Stephen X., 59 AD3d 792 [2009]). The record further reflects that petitioner commenced a related proceeding involving both children in April 2004, which also was dismissed for lack of jurisdiction.