

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

Decided and Entered: October 18, 2012

513081

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In the Matter of LAURA L.  
ROBERTS,

Appellant,

v

MEMORANDUM AND ORDER

MEGHAN LaCROSS,

Respondent,  
et al.,  
Respondent.

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Calendar Date: September 14, 2012

Before: Mercure, J.P., Malone Jr., McCarthy, Garry and  
Egan Jr., JJ.

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Matthew C. Hug, Troy, for appellant.

Ronald Leonard Daigle, Granville, for Meghan LaCross,  
respondent.

Catherine Ann Burkly, Schuylerville, attorney for the  
child.

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Malone Jr., J.

Appeal from an order of the Family Court of Washington  
County (McKeighan, J.), entered July 7, 2011, which, in a  
proceeding pursuant to Family Ct Act article 6, granted a motion  
by the attorney for the child and respondent Meghan LaCross to  
dismiss the petition.

In March 2011, petitioner, the subject child's paternal  
grandmother, commenced this proceeding seeking visitation with

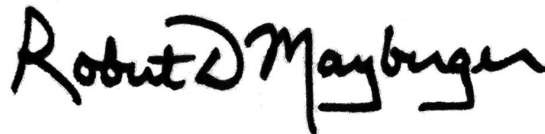
the child (born in 2009) after a previous petition seeking the same relief was dismissed by Family Court for lack of standing in an order that was affirmed by this Court (Matter of Roberts v Roberts, 81 AD3d 1117 [2011]). The attorney for the child moved to dismiss the instant petition on the same basis, that petitioner lacked standing, which motion was joined by respondent Meghan LaCross, the child's mother. Family Court granted the motion and dismissed the petition without a hearing, with prejudice, prompting this appeal.

Family Court did not abuse its discretion by granting the motion to dismiss the petition because petitioner again failed to establish that she has standing to seek visitation with the child. Although petitioner alleged that she sent the child birthday and holiday cards, and presented evidence that she maintains good relationships with other children in her family, this evidence tended to establish only her love and affection for the child, not that she had a "'sufficient existing relationship'" with the child (Matter of Roberts v Roberts, 81 AD3d at 1118, quoting Matter of Emanuel S. v Joseph E., 78 NY2d 178, 182 [1991]; see Domestic Relations Law § 72 [1]; Matter of Bassett v McGraw, 55 AD3d 980, 981 [2008]). Moreover, contrary to petitioner's contentions, the record reveals that it was orders of protection in place against her as a result of her own conduct – and not the actions of the child's mother – that thwarted her ability to form a relationship with the child (see Matter of Emanuel S. v Joseph E., 78 NY2d at 182-183; Matter of Roberts v Roberts, 81 AD3d at 1118). In light of the court's familiarity with the parties and its apprehension of the relevant factual circumstances, we find no abuse of discretion in its determination that no triable issues of facts existed that warranted a hearing on the petition (see Matter of Roberts v Roberts, 81 AD3d at 1118; compare Matter of Newton v Simons, 52 AD3d 895, 896 [2008]).

Mercure, J.P., McCarthy, Garry and Egan Jr., JJ., concur.

ORDERED that the order is affirmed, without costs.

ENTER:

A handwritten signature in black ink that reads "Robert D. Mayberger". The signature is written in a cursive style with a large, stylized 'R' and 'M'.

Robert D. Mayberger  
Clerk of the Court