

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

D15465
Y/cb

_____AD3d_____

Argued - April 10, 2007

ROBERT A. SPOLZINO, J.P.
STEVEN W. FISHER
JOSEPH COVELLO
WILLIAM E. McCARTHY, JJ.

2006-03424

DECISION & ORDER

In the Matter of Sabrina Vega, respondent, v Wilson
Afanador, appellant.
(Proceeding No. 1)

In the Matter of Wilson Afanador, appellant, v Sabrina
Vega, respondent.
(Proceeding No. 2)

(Docket Nos. V-05522-03, V031636-03)

Robert Marinelli, Brooklyn, N.Y., for appellant.

Carol Sherman, Brooklyn, N.Y. (Cynthia Godsoe and Barbara H. Dildine of counsel),
Law Guardian for the child.

In two related proceedings pursuant to Family Court Act article 6, the father appeals from an order of the Family Court, Kings County (Goldstein, Ct. Atty. Ref.), dated March 24, 2006, which, after a hearing, granted the mother's petition for sole custody of the subject child and denied his cross petition for sole custody.

ORDERED that the order is affirmed, without costs or disbursements.

The essential consideration in a custody determination is the best interests of the child (see *Eschbach v Eschbach*, 56 NY2d 167, 171; *Friederwitzer v Friederwitzer*, 55 NY2d 89, 95).

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MATTER OF AFANADOR v VEGA

“Since the Family Court’s custody determination is largely dependent upon an assessment of the credibility of the witnesses and upon the character, temperament, and sincerity of the parents, its determination should not be disturbed unless it lacks a sound and substantial basis in the record” (*Matter of Plaza v Plaza*, 305 AD2d 607; see *Matter of Tavaréz v Musse*, 31 AD3d 458; *Matter of Perez v Montanez*, 31 AD3d 565; *Maloney v Maloney*, 208 AD2d 603). Here, the Family Court’s determination to award custody to the mother has a sound and substantial basis in the record and will not be disturbed.

SPOLZINO, J.P., FISHER, COVELLO and McCARTHY, JJ., concur.

ENTER:


James Edward Pelzer
Clerk of the Court