

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

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Submitted - May 8, 2007

HOWARD MILLER, J.P.
WILLIAM F. MASTRO
GABRIEL M. KRAUSMAN
EDWARD D. CARNI, JJ.

2006-02138

DECISION & ORDER

In the Matter of Michael Meadowcroft, respondent,
v Wendy Woods, appellant.

(Docket No. V-5096-03)

Andrew John Calcagno, Staten Island, N.Y., for appellant.

Anthony J. Morisano, Staten Island, N.Y., Law Guardian for the children.

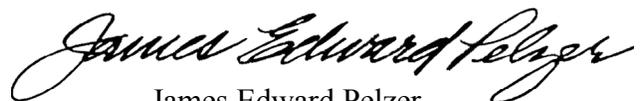
In a child custody proceeding pursuant to Family Court Act article 6, the mother appeals, as limited by her brief, from so much of an order of the Family Court, Richmond County (Cohen-Gallet, Ct. Atty. Ref.), dated February 15, 2006, as, upon denying the father's custody petition, directed that she move the children back to any location within 35 miles of her former residence on Staten Island.

ORDERED that the order is reversed insofar as appealed from, on the law and the facts, without costs or disbursements, and the provision directing the appellant to move the children back to any location within 35 miles of her former residence on Staten Island is vacated.

In the absence of a petition seeking a modification of a prior order of custody or visitation or alleging a violation of a prior order of custody or visitation, the Family Court was without jurisdiction to direct the appellant to move the children back to any location within 35 miles of her former residence on Staten Island (*see Matter of Harriet v Alex LL.*, 292 AD2d 92; *Matter of Massaro v English*, 262 AD2d 879).

MILLER, J.P., MASTRO, KRAUSMAN and CARNI, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court

July 31, 2007

MATTER OF MEADOWCROFT v WOODS