

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

D22145
G/prt

____AD3d____

Submitted - January 20, 2009

REINALDO E. RIVERA, J.P.
DANIEL D. ANGIOLILLO
EDWARD D. CARNI
WILLIAM E. McCARTHY, JJ.

2006-08703

DECISION & ORDER

In the Matter of Renee M. Kearse Smith,
appellant, v Calvin C. Vogt, respondent.

(Docket No. V-2093-95)

Neal D. Futerfas, White Plains, N.Y., for appellant.

Gail Jacobs, Great Neck, N.Y., attorney for the child.

In a child custody and visitation proceeding pursuant to Family Court Act article 6, the mother appeals from an order of the Family Court, Nassau County (Phillips, Ct. Atty. Ref.), dated July 21, 2006, which, after a hearing, denied her petition to modify a prior order of the same court (Medowar, J.), dated May 15, 1996, inter alia, awarding her sole custody of the parties' child, to allow her to relocate from New York to North Carolina with the subject child, and granted that branch of the father's cross petition which was to modify the prior order to award him sole custody of the subject child.

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

The Family Court's determination, after weighing the appropriate factors (*see Matter of Shehata v Shehata*, 31 AD3d 773, 774), that awarding the father custody of the child would be in the child's best interests, had a sound and substantial basis in the record and should not be disturbed (*see Matter of Ganzenmuller v Rivera*, 40 AD3d 756, 757).

RIVERA, J.P., ANGIOLILLO, CARNI and McCARTHY, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court

February 17, 2009

MATTER OF SMITH v VOGT