

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

D33780
W/ct

_____AD3d_____

Argued - January 6, 2012

PETER B. SKELOS, J.P.
THOMAS A. DICKERSON
LEONARD B. AUSTIN
ROBERT J. MILLER, JJ.

2010-09680

DECISION & ORDER

In the Matter of Anthony Fortunato, respondent, v
Kimberle Murray, appellant.

(Docket Nos. V-6460-08, V-6461-08, V-6462-08)

Law Offices of Christian Browne, P.C., Garden City, N.Y., for appellant.

Rita A. Pelt, Uniondale, N.Y., for respondent.

Joseph P. Abbenda, Glen Cove, N.Y., attorney for the children.

In related child custody proceedings 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, Nassau County (Zimmerman, J.), dated August 5, 2010, as, after a hearing, granted the father's petition to modify an order of the same court (Phillips, Ct. Atty. Ref.), dated April 21, 2009, awarding residential custody of the parties' daughter to her, so as to award residential custody of the daughter to the father, and denied her petition to vacate an order of the same court (Phillips, Ct. Atty. Ref.), dated September 7, 2009, awarding the father residential custody of the parties' youngest son, or modify the order so as to award her residential custody of the youngest son.

ORDERED that the appeal from so much of the order dated August 5, 2010, as granted the father's petition to modify the order dated April 21, 2009, is dismissed as academic; and it is further,

ORDERED that the order dated August 5, 2010, is affirmed insofar as reviewed, and it is further,

ORDERED that one bill of costs is awarded to the father.

January 31, 2012

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The mother's arguments concerning custody of the parties' daughter have been rendered academic, as the daughter has reached the age of majority (*see Almeda v Hopper*, 2 AD3d 471; *Belsky v Belsky*, 172 AD2d 576; *Berk v Berk*, 170 AD2d 564, 565).

Contrary to the mother's contention, the Family Court's denial of her petition to vacate an order awarding residential custody of the parties' youngest son to the father or modify the order so as to award her residential custody had a sound and substantial basis in the record (*see Eschbach v Eschbach*, 56 NY2d 167; *Matter of Gant v Chambliss*, 86 AD3d 612). A review of the Family Court's determination indicates that it gave careful consideration to all relevant factors (*see Matter of Galanos v Galanos*, 28 AD3d 554, 555).

SKELOS, J.P., DICKERSON, AUSTIN and MILLER, JJ., concur.

ENTER:


Aprilanne Agostino
Clerk of the Court