

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

D33871  
O/kmb

\_\_\_\_\_AD3d\_\_\_\_\_

Submitted - January 13, 2012

DANIEL D. ANGIOLILLO, J.P.  
THOMAS A. DICKERSON  
LEONARD B. AUSTIN  
JEFFREY A. COHEN, JJ.

2010-11372

DECISION & ORDER

In the Matter of Daniel L. Bassuk, respondent,  
v Anita M. Bassuk, appellant.

(Docket Nos. V-935/07, V-16352/07)

Etta Ibok, Brooklyn, N.Y., for appellant.

John W. Casey, Long Island City, N.Y., for respondent.

Lewis S. Calderon, Jamaica, N.Y., attorney for the child.

In a 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, Queens County (Negron, Ct. Atty. Ref.), dated October 27, 2010, as precluded her from traveling with the subject child until he reached the age of eight.

ORDERED that the order is affirmed insofar as appealed from, without costs or disbursements.

The paramount concern in adjudicating visitation rights is the best interests of the child (*see Matter of Awan v Awan*, 63 AD3d 733, 734, citing *Eschbach v Eschbach*, 56 NY2d 167, 171). “Determinations as to custody and visitation are ordinarily a matter for the hearing court, and its determination will not be set aside unless lacking a sound and substantial basis in the record” (*Matter of Awan v Awan*, 63 AD3d at 734). Here, the mother, in effect, renewed her prior applications for permission to travel with the subject child to Brazil. Under the circumstances of this case, the Family Court properly precluded her from doing so until the child reaches the age of eight, in October 2012. The mother failed to meet her burden on her application of establishing that travel

March 6, 2012

Page 1.

MATTER OF BASSUK v BASSUK

before the age of eight would be in the child's best interests (*see Matter of Awan v Awan*, 63 AD3d 733; *cf. Lolli-Ghetti v Lolli-Ghetti*, 162 AD2d 198, 199).

ANGIOLILLO, J.P., DICKERSON, AUSTIN and COHEN, JJ., concur.

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2010-11372

DECISION & ORDER ON MOTION

In the Matter of Daniel L. Bassuk, respondent,  
v Anita M. Bassuk, appellant.

(Docket Nos. V-935/07, V-16352/07)

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Motion by the appellant on an appeal from an order of the Family Court, Queens County, dated October 27, 2010, to strike the brief filed by the attorney for the child on the ground that it refers to matter *dehors* the record. By decision and order on motion of this Court dated December 14, 2011, the branch of the motion which was to strike stated portions of the brief of the attorney for the child was held in abeyance and referred to the panel of Justices hearing the appeal for determination upon the argument or submission thereof.

Upon the papers filed in support of the motion and the papers filed in opposition thereto, and upon the submission of the appeal, it is

ORDERED that the branch of the motion which was referred to this panel of Justices is granted, and the material at issue has not been considered in determining the appeal.

ANGIOLILLO, J.P., DICKERSON, AUSTIN and COHEN, JJ., concur.

ENTER:



Aprilanne Agostino  
Clerk of the Court