

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

D33972  
W/prt

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Submitted - January 20, 2012

WILLIAM F. MASTRO, A.P.J.  
DANIEL D. ANGIOLILLO  
RANDALL T. ENG  
JEFFREY A. COHEN, JJ.

2011-02222

DECISION & ORDER

In the Matter of Ramon M. Aquino, respondent,  
v Jaclyn F. Antongiorgi, appellant.  
(Proceeding Nos. 1 and 2)

In the Matter of Jaclyn F. Antongiorgi, appellant,  
v Ramon M. Aquino, respondent.  
(Proceeding Nos. 3 and 4)

(Docket Nos. V-00083-03, V-00084-03, O-6864-09,  
O-3404-10)

Carol Kahn, New York, N.Y., for appellant.

Michael R. Varble, Poughkeepsie, N.Y., for respondent.

Neal D. Futerfas, White Plains, N.Y., attorney for the children.

In related visitation and family offense proceedings pursuant to Family Court Act articles 6 and 8, the mother appeals, as limited by her brief, from so much an order of the Family Court, Dutchess County (Forman, J.), dated January 19, 2011, as, after a limited hearing, in effect, denied her petition, in effect, to modify an order of the same court dated November 4, 2009, awarding the father sole custody of the parties' children with certain visitation to her, so as to award her sole custody of the children, denied those branches of her separate petition which were, in effect,

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to modify the same order so as to award her sole custody of the children and to direct that the children attend therapy, and directed that “[n]o petition requesting additional visitation by the mother shall be accepted by the court until the [attorney for the children] has approved of such a request.”

ORDERED that the order dated January 19, 2011, is modified, on the law, by deleting the provision thereof directing that “no petition requesting additional visitation by the mother shall be accepted by the court until the attorney for the children has approved of such a request;” as so modified, the order dated January 19, 2011, is affirmed insofar as appealed from, without costs or disbursements.

Contrary to the mother’s contention, the Family Court’s determination, in effect, that it would not be in the best interests of the children for it to modify a prior order awarding the father sole custody of the parties’ children so as to award her sole custody, has a sound and substantial basis in the record and, accordingly, will not be disturbed (*see Matter of Arduino v Aynso*, 70 AD3d 682; *Matter of Mohabir v Singh*, 63 AD3d 1159, 1159; *Matter of Perez v Martinez*, 52 AD3d 518, 519). Although, as a general rule, determinations regarding custody and related matters should be made after a full evidentiary hearing (*see e.g. Matter of Brooks v Brooks*, 255 AD2d 382, 383), here, the mother consented to the Family Court’s so-called “mini-hearing” procedure, thus waiving her right to a full evidentiary hearing (*see Matter of Goldman v Goldman*, 201 AD2d 860, 862; *cf. Matter of Richmond v Perez*, 38 AD3d 782, 783-784). In any event, a full evidentiary hearing was not necessary, since the Family Court possessed sufficient information to render an informed decision consistent with the best interests of the children (*see Matter of Peluso v Kasun*, 78 AD3d 950, 950-951; *Matter of Hom v Zullo*, 6 AD3d 536, 536; *see also Matter of Weinschneider v Weinschneider*, 73 AD3d 1194, 1195).

We agree, however, with the mother’s contention that the Family Court erred in directing that “[n]o petition requesting additional visitation by the mother shall be accepted by the court until the [attorney for the children] has approved of such a request” (*see Matter of Mackenzie M. v Mary U.*, 38 AD3d 1249, 1250; *Matter of Shreve v Shreve*, 229 AD2d 1005, 1006). We note that the alternatives to that provision proposed by the father and the attorney for the children in their respective briefs also would be improper (*see generally Matter of Williams v O’Toole*, 4 AD3d 371, 372; *Matter of Adam H.*, 195 AD2d 1074, 1075; *cf. Vogelgesang v Vogelgesang*, 71 AD3d 1132, 1134).

MASTRO, A.P.J., ANGIOLILLO, ENG and COHEN, JJ., concur.

ENTER:



Aprilanne Agostino  
Clerk of the Court