

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

D36189
T/ct

_____AD3d_____

Argued - September 11, 2012

RANDALL T. ENG, P.J.
REINALDO E. RIVERA
L. PRISCILLA HALL
SANDRA L. SGROI, JJ.

2011-11704

DECISION & ORDER

In the Matter of Jeffrey Doroski, respondent, v Nancy
Ashton, appellant.

(Docket No. V-08252-04/09F)

Solomon & Herrera, Levittown, N.Y. (Michael D. Solomon and Susan A. Rubin of
counsel), for appellant.

Feldman and Feldman, Uniondale, N.Y. (Steven A. Feldman and Arza Feldman of
counsel), for respondent.

Debra A. Brynes, Centereach, N.Y., attorney for the child.

In a child custody proceeding pursuant to Family Court Act article 6, the mother
appeals from an order of the Family Court, Suffolk County (Cheng, J.), dated December 8, 2011,
which, after a hearing, granted the father's petition to modify a prior order of the same court
(Lynaugh, J.) dated August 4, 2005, which awarded sole custody of the parties' child to her, with
visitation to the father, so as to award the father sole custody, with visitation to her.

ORDERED that the order dated December 8, 2011, is affirmed, with costs payable
by the appellant to the petitioner.

Modification of an existing custody arrangement is permissible only upon a showing
that there has been a change in circumstances such that modification is necessary to ensure the best
interests of the child (*see Matter of Strand-O'Shea v O'Shea*, 32 AD3d 398). Parental alienation of
a child from the other parent is "an act so inconsistent with the best interests of the children as to,
per se, raise a strong probability that the [offending party] is unfit to act as custodial parent"

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(*Entwistle v Entwistle*, 61 AD2d 380, 384-385; *see Bobinski v Bobinski*, 9 AD3d 441; *Stern v Stern*, 304 AD2d 649; *Young v Young*, 212 AD2d 114, 122). As custody determinations turn in large part on assessments of the credibility, character, temperament, and sincerity of the parties, the Family Court's determination should not be disturbed unless it lacks a sound and substantial basis in the record (*see Eschbach v Eschbach*, 56 NY2d 167, 173-174). Here, the Family Court's determinations that there had been a change in circumstances, and that a transfer of sole custody to the father would be in the child's best interests, have a sound and substantial basis in the record and, thus, should not be disturbed (*see Matter of Tobar v Velez-Molina*, 95 AD3d 1224; *Matter of Galanos v Galanos*, 28 AD3d 554, 555).

The mother's remaining contention is without merit.

ENG, P.J., RIVERA, HALL and SGROI, JJ., concur.

ENTER:

A handwritten signature in black ink that reads "Aprilanne Agostino". The signature is written in a cursive, flowing style.

Aprilanne Agostino
Clerk of the Court