

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

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Submitted - September 20, 2012

RANDALL T. ENG, P.J.  
PETER B. SKELOS  
PLUMMER E. LOTT  
JEFFREY A. COHEN, JJ.

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2011-08434

DECISION & ORDER

In the Matter of Kiera Mollet, respondent, v Jason  
Mollet, appellant.

(Docket No. V-23142-09/11C)

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Susan A. DeNatale, Mastic, N.Y., for appellant.

Terry R. Woodard, Central Islip, N.Y., for respondent.

Diane B. Groom, Central Islip, N.Y., attorney for the child.

In a custody proceeding pursuant to Family Court Act article 6, in effect, to modify a prior custody arrangement set forth in an order of the Family Court, Suffolk County (James, Ct. Attny. Ref.), dated May 26, 2010, the father appeals, as limited by his brief, from so much of an order of the same court dated August 18, 2011, as, after a hearing, granted the mother's petition for sole custody of the subject child.

ORDERED that the order is affirmed insofar as appealed from, with costs.

“In order to modify an existing custody or visitation arrangement, there must be a showing that there has been a change in circumstances such that modification is required to protect the best interests of the child” (*Matter of Francois v Grimm*, 84 AD3d 1082, quoting *Matter of Peralta v Irrizary*, 76 AD3d 561, 562; see Family Ct Act § 652). “The best interests of the child are determined by a review of the totality of the circumstances” (*Matter of Garcia v Fountain*, 82 AD3d 979, 980).

Here, the Family Court's award of sole legal and physical custody of the subject child

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to the mother has a sound and substantial basis in the record and will not be disturbed (*see Matter of McDonough v McDonough*, 73 AD3d 1067, 1068; *Matter of Tercjak V Tercjak*, 49 AD3d 772).

The father's remaining contentions are without merit.

ENG, P.J., SKELOS, LOTT and COHEN, JJ., concur.

ENTER:

  
Aprilanne Agostino  
Clerk of the Court