

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

D36951
C/hu

_____AD3d_____

Argued - December 5, 2012

WILLIAM F. MASTRO, J.P.
REINALDO E. RIVERA
THOMAS A. DICKERSON
PLUMMER E. LOTT, JJ.

2011-07932
2011-11311

DECISION & ORDER

In the Matter of Gina Marie Cordova, respondent, v
Kristopher H. Vagianos, appellant.

(Docket No. V-1450-11)

Gail Jacobs, Great Neck, N.Y., for appellant.

Lisa Siano, Uniondale, N.Y., for respondent.

Dennis G. Monahan, Nesconset, N.Y., attorney for the child.

In a proceeding pursuant to Family Court Act article 6, the father appeals, as limited by his brief, from (1) stated portions of an order of the Family Court, Nassau County (Stack, J.H.O.), dated August 2, 2011, which, after a hearing, inter alia, granted the mother's petition for leave to relocate with the parties' child to Buffalo, and (2) stated portions of an order of the same court dated October 18, 2011, which, among other things, awarded him only certain visitation.

ORDERED that the orders are affirmed insofar as appealed from, without costs or disbursements.

“When reviewing a custodial parent's request to relocate, the court's primary focus must be on the best interests of the child” (*Matter of Giraldo v Gomez*, 49 AD3d 645, 645; *see Matter of Said v Said*, 61 AD3d 879, 881). Here, the Family Court, upon weighing the appropriate factors set forth in *Matter of Tropea v Tropea* (87 NY2d 727, 740-741), properly determined that relocation was in the best interests of the parties' child.

“The court has discretion to determine what, if any, visitation is in the best interests

of the child” (*Matter of Franklin v Richey*, 57 AD3d 663, 664 [internal quotation marks omitted]; see *Matter of Mera v Rodriguez*, 73 AD3d 1069). “This determination will not be set aside unless it lacks a substantial evidentiary basis in the record” (*Franklin v Richey*, 57 AD3d at 664 [internal quotation marks omitted]; see *Matter of Wispe v Leandry*, 63 AD3d 853; *Matter of Thompson v Yu-Thompson*, 41 AD3d 487, 488). Contrary to the father’s contention, the visitation award was supported by a sound and substantial basis in the record. Thus, the Family Court’s determination will not be disturbed (see *Matter of Manzella v Milano*, 82 AD3d 1242).

The father’s remaining contentions are without merit.

MASTRO, J.P., RIVERA, DICKERSON and LOTT, JJ., concur.

ENTER:


Aprilanne Agostino
Clerk of the Court