

SUPREME COURT OF THE STATE OF NEW YORK
Appellate Division, Fourth Judicial Department

1524

CAF 08-02431

PRESENT: SCUDDER, P.J., FAHEY, CARNI, AND GORSKI, JJ.

IN THE MATTER OF LORIE SPORTELLO,
PETITIONER-APPELLANT,

V

MEMORANDUM AND ORDER

MICHAEL A. SPORTELLO, RESPONDENT-RESPONDENT.
(APPEAL NO. 1.)

JOHN J. RASPANTE, NEW HARTFORD, FOR PETITIONER-APPELLANT.

JESSICA MANIERI, LAW GUARDIAN, HERKIMER, FOR TYLER R.S. AND MICHAEL
V.S.

Appeal from an order of the Family Court, Herkimer County
(Anthony J. Garramone, J.H.O.), entered July 30, 2008 in a proceeding
pursuant to Family Court Act article 6. The order dismissed the
petition.

It is hereby ORDERED that the order so appealed from is
unanimously affirmed without costs.

Memorandum: With respect to the order in appeal No. 1, we
conclude that Family Court properly dismissed the petition seeking
permission for the parties' children to relocate with petitioner
mother. At the time of the hearing on the petition, the mother did
not know where she would be relocating and thus could not provide any
information concerning where the children would live or the schools
that they would attend. Thus, the mother failed to meet her burden of
establishing that the proposed relocation is in the best interests of
the children (*see Matter of Seyler v Hasfurter*, 61 AD3d 1437). With
respect to the order in appeal No. 2, we conclude that the court
properly dismissed the mother's petition seeking to modify respondent
father's visitation rights by requiring that the presently
unsupervised visitation be supervised. The mother failed to meet her
burden of establishing that the father was an abusive or unfit parent
(*see Matter of Ritz v Otero*, 265 AD2d 560), and the court's
determination is entitled to deference where, as here, it has a sound
basis in the record (*see Matter of Custer v Slater*, 2 AD3d 1227).
With respect to the order in appeal No. 3, which dismissed the
mother's violation petition, the mother has not raised any contentions
concerning that order in her brief on appeal, and thus we deem any
such contentions abandoned (*see Ciesinski v Town of Aurora*, 202 AD2d

984).

Entered: February 11, 2010

Patricia L. Morgan
Clerk of the Court