

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

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CAF 10-00365

PRESENT: SMITH, J.P., PERADOTTO, LINDLEY, SCONIERS, AND MARTOCHE, JJ.

IN THE MATTER OF NORMAN E. GREEN,
PETITIONER-RESPONDENT,

V

MEMORANDUM AND ORDER

JACQUELINE BONTZOLAKES, RESPONDENT-APPELLANT.
(PROCEEDING NOS. 1 AND 3.)

IN THE MATTER OF JACQUELINE BONTZOLAKES,
PETITIONER-APPELLANT,

V

NORMAN E. GREEN, RESPONDENT-RESPONDENT.
(PROCEEDING NO. 2.)

CHARLES J. GREENBERG, BUFFALO, FOR RESPONDENT-APPELLANT AND
PETITIONER-APPELLANT.

NORMAN E. GREEN, PETITIONER-RESPONDENT AND RESPONDENT-RESPONDENT PRO
SE.

MARY ANNE CONNELL, ATTORNEY FOR THE CHILD, BUFFALO, FOR NYDAYA G.

Appeal from an order of the Family Court, Erie County (Rosalie Bailey, J.), entered October 7, 2009 in a proceeding pursuant to Family Court Act article 6. The order, among other things, awarded sole custody of the parties' child to petitioner Norman E. Green and visitation to respondent Jacqueline Bontzolakes.

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

Memorandum: The mother of the child at issue, the respondent in proceeding Nos. 1 and 3 and the petitioner in proceeding No. 2, appeals from an order that, following a hearing, granted the petitions in proceeding Nos. 1 and 3. The father, by those petitions, alleged that the mother violated the provisions of a prior order of custody and visitation and sought to modify that order by awarding him sole custody of the parties' daughter and granting visitation to the mother. Family Court also denied the mother's petition in proceeding No. 2 seeking modification of the visitation provisions of the prior order. Contrary to the mother's contention, the court properly awarded the father sole custody of the child (*see Matter of Dubuque v*

Bremiller, 79 AD3d 1743). " 'Generally, a court's determination regarding custody and visitation issues, based upon a first-hand assessment of the credibility of the witnesses after an evidentiary hearing, is entitled to great weight and will not be set aside unless it lacks an evidentiary basis in the record' " (*id.* at 1744). We see no basis to disturb the court's determination.

We have considered the mother's remaining contentions and conclude that they are without merit.

Entered: April 1, 2011

Patricia L. Morgan
Clerk of the Court