

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

1690

CAF 08-02488

PRESENT: SMITH, J.P., FAHEY, CARNI, AND GREEN, JJ.

IN THE MATTER OF JEAN WELLINGTON,
PETITIONER-APPELLANT,

V

MEMORANDUM AND ORDER

ANTONIO RICCARDO, JR., RESPONDENT-RESPONDENT.

ABBIE GOLDBAS, UTICA, FOR PETITIONER-APPELLANT.

ROSEMARY O. NWAOKA, P.C., FAYETTEVILLE (ROSEMARY O. NWAOKA OF
COUNSEL), FOR RESPONDENT-RESPONDENT.

JESSICA MANIERI, LAW GUARDIAN, HERKIMER, FOR BIANCA R. AND LUCIANO R.

Appeal from an order of the Family Court, Herkimer County (Anthony J. Garramone, J.H.O.), entered November 20, 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: Petitioner mother appeals from an order granting respondent father's motion to dismiss the petition seeking to modify certain stipulated provisions of the divorce judgment concerning visitation with the parties' children. The mother has not raised any issues with respect to that part of the order dismissing the petition insofar as it sought termination of the father's Wednesday visitation, and thus she is deemed to have abandoned any such issues (*see Matter of Walters v Francisco*, 63 AD3d 1610, 1611; *Ciesinski v Town of Aurora*, 202 AD2d 984). Family Court properly granted that part of the motion to dismiss the petition insofar as it sought an order directing the father to provide all transportation for visitation. The mother failed to establish a change in circumstances since the time of the stipulation sufficient to warrant the modification sought (*see Walters*, 63 AD3d at 1611; *Matter of Gridley v Syrko*, 50 AD3d 1560, 1561).

Entered: February 11, 2010

Patricia L. Morgan
Clerk of the Court