

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

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CAF 08-01200

PRESENT: HURLBUTT, J.P., PERADOTTO, CARNI, GREEN, AND PINE, JJ.

IN THE MATTER OF WILLIAM BURCZYNSKI,
PETITIONER-APPELLANT,

V

MEMORANDUM AND ORDER

STEPHANIE RODGERS, RESPONDENT-RESPONDENT.

ALAN BIRNHOLZ, EAST AMHERST, FOR PETITIONER-APPELLANT.

JEFFREY C. MANNILLO, LAW GUARDIAN, BUFFALO, FOR ANDREW B.

Appeal from an order of the Family Court, Erie County (Craig D. Hannah, A.J.), entered May 8, 2008 in a proceeding pursuant to Family Court Act article 6. The order denied the petition seeking to modify a prior order of custody and visitation.

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

Memorandum: Petitioner father appeals from an order that denied his petition seeking to modify a prior order of custody and visitation by providing him with unsupervised home visitation with the parties' child. Contrary to the contention of the father and the Law Guardian, the record supports Family Court's determination that the best interests of the child would be served by the continuation of supervised visitation (*see Matter of Hall v Porter*, 52 AD3d 1289).

Entered: April 24, 2009

Patricia L. Morgan
Deputy Clerk of the Court