

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

1225

CAF 11-02256

PRESENT: CENTRA, J.P., PERADOTTO, SCONIERS, VALENTINO, AND MARTOCHE, JJ.

IN THE MATTER OF JEREMY WAWRZYNSKI,
PETITIONER-RESPONDENT,

V

MEMORANDUM AND ORDER

SHANTEL GOODMAN, RESPONDENT-APPELLANT.

WAGNER & HART, LLP, OLEAN (JANINE FODOR OF COUNSEL), FOR
RESPONDENT-APPELLANT.

GERALD J. VELLA, SPRINGVILLE, FOR PETITIONER-RESPONDENT.

JAY D. CARR, ATTORNEY FOR THE CHILD, OLEAN, FOR ZOEY W.

Appeal from an order of the Family Court, Cattaraugus County (Judith E. Samber, R.), entered April 13, 2011 in a proceeding pursuant to Family Court Act article 6. The order, among other things, denied respondent's petition to modify a prior custody order.

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

Memorandum: Respondent mother appeals from an order that, *inter alia*, denied her petition seeking modification of a prior custody order that awarded sole custody of the subject child to petitioner father. Contrary to the mother's contention, there is a sound and substantial basis in the record for Family Court's determination that the mother failed to make the requisite evidentiary showing of a change in circumstances to warrant an inquiry into whether the best interests of the subject child would be served by modifying the existing custody arrangement (*see Matter of Jackson v Beach*, 78 AD3d 1549, 1550; *Matter of Simonds v Kirkland*, 67 AD3d 1481, 1482).

Entered: November 16, 2012

Frances E. Cafarell
Clerk of the Court