

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

927

CAF 12-00627

PRESENT: SCUDDER, P.J., CENTRA, LINDLEY, AND WHALEN, JJ.

IN THE MATTER OF CRISTAL L. BUTTON,
PETITIONER-APPELLANT,

V

MEMORANDUM AND ORDER

RICHARD J. ALLEN, RESPONDENT-RESPONDENT.

IN THE MATTER OF RICHARD J. ALLEN,
PETITIONER-RESPONDENT,

V

CRISTAL L. BUTTON, RESPONDENT-APPELLANT.

DAVISON LAW OFFICE PLLC, CANANDAIGUA (MARY P. DAVISON OF COUNSEL), FOR
PETITIONER-APPELLANT AND RESPONDENT-APPELLANT.

BETZJITOMIR & BAXTER, LLP, BATH (SUSAN BETZJITOMIR OF COUNSEL), FOR
RESPONDENT-RESPONDENT AND PETITIONER-RESPONDENT.

SAMANTHA PETERS SMITH, ATTORNEY FOR THE CHILDREN, CANISTEO.

VIVIAN CLARA STRACHE, ATTORNEY FOR THE CHILD, BATH.

Appeal from an order of the Family Court, Steuben County (Timothy K. Mattison, J.H.O.), entered March 27, 2012 in a proceeding pursuant to Family Court Act article 6. The order awarded the parties joint custody, awarded primary physical custody of two children to Richard J. Allen and awarded primary physical custody of one child to Cristal L. Button.

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

Memorandum: Petitioner-respondent mother appeals from an order that, inter alia, awarded the parties joint legal custody of the children, awarded primary physical custody of the parties' sons to respondent-petitioner father and awarded primary physical custody of the parties' daughter to the mother. On appeal, the mother contends that Family Court abused its discretion in awarding primary physical custody of the parties' sons to the father because splitting physical placement of the children is not in their best interests. We reject that contention. The court's custody determination following a hearing is entitled to great deference (*see Eschbach v Eschbach*, 56

NY2d 167, 173-174). We will not disturb the custody determination here inasmuch as the court made extensive factual findings that are supported by the record and "that warrant the conclusion that the needs of each of the children will best be met by the court's disposition" (*Matter of Roulo v Roulo*, 201 AD2d 937, 937-938).

Entered: September 27, 2013

Frances E. Cafarell
Clerk of the Court