

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

1350

CAF 12-01236

PRESENT: SMITH, J.P., FAHEY, LINDLEY, SCONIERS, AND WHALEN, JJ.

IN THE MATTER OF MICHELE COWELL,
PETITIONER-APPELLANT,

V

MEMORANDUM AND ORDER

ROBERT PEMBROCK, SR., RESPONDENT-RESPONDENT.

ELIZABETH CIAMBRONE, BUFFALO, FOR PETITIONER-APPELLANT.

VENZON LAW FIRM PC, BUFFALO (CATHARINE M. VENZON OF COUNSEL), FOR
RESPONDENT-RESPONDENT.

DOMINIC PAUL CANDINO, ATTORNEY FOR THE CHILD, BUFFALO.

Appeal from an order of the Family Court, Erie County (Margaret O. Szczur, J.), entered May 14, 2012 in a proceeding pursuant to Family Court Act article 6. The order, among other things, dismissed the petition seeking to modify a prior order that awarded custody of the subject child to respondent.

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

Memorandum: Petitioner mother appeals from an order that, inter alia, dismissed her petition seeking modification of a prior order that awarded custody of the subject child to respondent father. Contrary to the mother's contention, Family Court properly dismissed the petition following a hearing. In seeking a change in the established custody arrangement, the mother was required to show " 'a change in circumstances [that] reflects a real need for change to ensure the best interest[s] of the child' " (*Matter of Moore v Moore*, 78 AD3d 1630, 1630, lv denied 16 NY3d 704), and the record supports the court's conclusion that the mother failed to make that showing (*see Matter of Horn v Horn*, 74 AD3d 1848, 1848, lv denied 15 NY3d 710).

Entered: January 3, 2014

Frances E. Cafarell
Clerk of the Court