

Supreme Court of the State of New York
Appellate Division: Second Judicial Department

D54464
L/htr

_____AD3d_____

Argued - October 25, 2017

LEONARD B. AUSTIN, J.P.
SANDRA L. SGROI
SYLVIA O. HINDS-RADIX
ANGELA G. IANNACCI, JJ.

2016-08716

DECISION & ORDER

In the Matter of Opal N. Henry, respondent,
v Winston D. Tucker, appellant.

(Docket Nos. V-9601-07/15F, V-9602-07/15F,
V-9603-07/15F)

Winston Tucker, sued herein as Winston D. Tucker, Jamaica, NY, appellant pro se.

Steven P. Forbes, Jamaica, NY, for respondent.

Toba Beth Stutz, Jamaica, NY, attorney for the children.

Appeal from an order of the Family Court, Queens County (Mildred T. Negron, J.), dated July 14, 2016. The order, insofar as appealed from, after a hearing, granted the mother's petition to modify a prior order of visitation dated July 26, 2013, so as to terminate the father's visitation with the parties' children to the extent of directing that the father has only supervised therapeutic visitation with the children.

ORDERED that the order dated July 14, 2016, is affirmed insofar as appealed from, without costs or disbursements.

The parties are the parents of three children, of whom the mother has custody. The mother commenced this proceeding to modify a prior visitation order, dated July 26, 2013, so as to terminate the father's visitation with the children. The Family Court granted the petition to the extent of directing that the father has only supervised therapeutic visitation with the children. The father appeals.

"A party seeking to modify a prior visitation order must show that there has been a

sufficient change in circumstances since the entry of the order such that modification is warranted to further the children’s best interests” (*Matter of Licato v Jornet*, 146 AD3d 787, 787). “Supervised visitation is appropriately required only where it is established that unsupervised visitation would be detrimental to the child” (*Cervera v Bressler*, 50 AD3d 837, 839 [internal quotation marks omitted]; see *Matter of Powell v Blumenthal*, 35 AD3d 615, 616). “The determination of whether visitation should be supervised is a matter left to the trial court’s sound discretion, and its findings will not be disturbed on appeal unless they lack a sound and substantial basis in the record” (*Matter of Kraft v Orsini*, 136 AD3d 916, 917, quoting *Irizarry v Irizarry*, 115 AD3d 913, 914-915). Here, contrary to the father’s contention, the Family Court’s determination that supervised therapeutic visitation was in the best interests of the children has a sound and substantial basis in the record and will not be disturbed (see *Matter of Torres v Ojeda*, 108 AD3d 570, 571).

The father’s remaining contentions are without merit.

AUSTIN, J.P., SGROI, HINDS-RADIX and IANNACCI, JJ., concur.

ENTER:


Aprilanne Agostino
Clerk of the Court