

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

D57432
L/htr

_____AD3d_____

Submitted - October 23, 2018

WILLIAM F. MASTRO, J.P.
SANDRA L. SGROI
COLLEEN D. DUFFY
HECTOR D. LASALLE, JJ.

2015-11705

DECISION & ORDER

In the Matter of John Henry Eckstein, Jr., appellant,
v Carolyn Alice Young, respondent.
(Proceeding No. 1)

In the Matter of Carolyn Alice Young, respondent,
v John Henry Eckstein, Jr., appellant.
(Proceeding No. 2)

(Docket Nos. V-5887-11, V-7118-11, V-15405-11,
V-3951-12, V-3951-12/14A)

Marc A. Greenberg, Elmsford, NY, for appellant.

Carolyn Alice Young, Hartford, CT, respondent pro se.

Andrew W. Szczesniak, White Plains, NY, attorney for the child.

In related proceedings pursuant to Family Court Act article 6, the father appeals from an order of the Family Court, Westchester County (Hal B. Greenwald, J.), dated October 22, 2015. The order, after a hearing, denied the father's petition for sole custody of the subject child and granted the mother's petition for sole custody of the subject child and, in effect, permission to relocate with the subject child to Connecticut.

ORDERED that the matter is remitted to the Family Court, Westchester County, for a reconstruction hearing with respect to those portions of the proceedings conducted in the above-entitled cases on April 30, 2012, and May 10, 2012, which could not be transcribed because the tape recordings were unavailable, and thereafter to report to this Court with all convenient speed, and the

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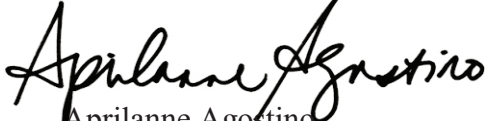
appeal is held in abeyance in the interim.

The father filed a petition seeking sole custody of the subject child, and the mother filed a petition seeking sole custody of the child and, in effect, permission to relocate with the child to Connecticut. After a hearing that began in 2012 and continued until 2015, the Family Court denied the father's petition for sole custody of the child, granted the mother's petition for sole custody of the child and, in effect, permission to relocate with the child to Connecticut, and awarded the father parental access with the child. The father appeals.

The issues raised by the father on appeal cannot be resolved on the record provided to this Court since relevant portions of the proceedings held on April 30, 2012, and May 10, 2012, could not be transcribed because the tape recordings were unavailable (*see Matter of Naquan L.G. [Carolyn C.]*, 119 AD3d 567, 567-568). Accordingly, we remit the matter to the Family Court, Westchester County, for a reconstruction hearing with respect to those portions of the proceedings conducted in the above-entitled cases on April 30, 2012, and May 10, 2012, which could not be transcribed because the tape recordings were unavailable, and the appeal is held in abeyance in the interim.

MASTRO, J.P., SGROI, DUFFY and LASALLE, JJ., concur.

ENTER:


Aprilanne Agostino
Clerk of the Court