

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

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CAF 24-01700

PRESENT: LINDLEY, J.P., BANNISTER, MONTOUR, GREENWOOD, AND HANNAH, JJ.

IN THE MATTER OF ETHAN K. SPRAGUE,
PETITIONER-RESPONDENT,

V

MEMORANDUM AND ORDER

ELIZABETH A. YOUNES, RESPONDENT-APPELLANT.

IN THE MATTER OF ELIZABETH A. YOUNES,
PETITIONER-APPELLANT,

V

ETHAN K. SPRAGUE, RESPONDENT-RESPONDENT.

LAW OFFICE OF VERONICA REED, SCHENECTADY (VERONICA REED OF COUNSEL),
FOR RESPONDENT-APPELLANT AND PETITIONER-APPELLANT.

GARY MULDOON, ROCHESTER, ATTORNEY FOR THE CHILD.

Appeal from an order of the Family Court, Allegany County (Emily Vella, R.), entered September 17, 2024, in a proceeding pursuant to Family Court Act article 6. The order, insofar as appealed from, dismissed the petition of respondent-petitioner seeking permission to relocate to Arkansas with the parties' child.

It is hereby ORDERED that the order so appealed from is unanimously reversed on the law without costs, respondent-petitioner's petition is reinstated, and the matter is remitted to Family Court, Allegany County, for further proceedings in accordance with the following memorandum: In this proceeding pursuant to Family Court Act article 6, respondent-petitioner mother appeals from an order insofar as it dismissed her petition seeking permission to relocate to Arkansas with the parties' child. The mother contends that Family Court's determination that relocation is not in the child's best interests lacks a sound and substantial basis in the record. The Attorney for the Child has submitted new information to this Court indicating that the mother married her fiancé, who resides in Arkansas, and that petitioner-respondent father has not exercised any visitation with the child for the past 16 months. This Court may "take notice of . . . new facts and allegations to the extent they indicate that the record before us is no longer sufficient for determining" whether relocation is in the child's best interests (*Matter of Allen v Courtney*, 224 AD3d 1346, 1347 [4th Dept 2024] [internal quotation marks omitted]; see *Matter of Michael B.*, 80 NY2d

299, 318 [1992]; see also *Matter of Morris v Smith*, 244 AD3d 1741, 1744 [4th Dept 2025]). In light of the new information, we reverse the order insofar as appealed from and reinstate the mother's petition, and we remit the matter to Family Court for an expedited hearing and, thereafter, a new determination of whether, considering the best interests of the child, the mother should be permitted to relocate with the child (see *Allen*, 224 AD3d at 1347; *Matter of Kennedy v Kennedy*, 107 AD3d 1625, 1626 [4th Dept 2013]).

Entered: May 1, 2026

Ann Dillon Flynn
Clerk of the Court