

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

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CAF 22-01712

PRESENT: WHALEN, P.J., LINDLEY, MONTOUR, GREENWOOD, AND NOWAK, JJ.

IN THE MATTER OF WILLIAM J. GEER,
PETITIONER-APPELLANT,

V

MEMORANDUM AND ORDER

JOANNE COLLAZO, RESPONDENT-RESPONDENT.

JULIE CIANCA, PUBLIC DEFENDER, ROCHESTER (TIMOTHY S. DAVIS OF
COUNSEL), FOR PETITIONER-APPELLANT.

WESLEY CLARK & PESHKIN, ROCHESTER (CYNTHIA J. CARROLL OF COUNSEL), FOR
RESPONDENT-RESPONDENT.

SARAH L. FIFIELD, FAIRPORT, ATTORNEY FOR THE CHILD.

Appeal from an order of the Family Court, Monroe County (Thomas W. Polito, R.), entered October 5, 2022, in a proceeding pursuant to Family Court Act article 6. The order denied the petition for visitation with respect to the subject child.

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

Memorandum: In this proceeding pursuant to Family Court Act article 6, petitioner father appeals from a decision that denied his petition seeking, inter alia, visitation with the subject child following his release from prison. The father had been imprisoned after pleading guilty to kidnapping in the second degree as a result of his role in the kidnapping of the child's mother.

Initially, although no appeal lies from a mere decision (*see Kuhn v Kuhn*, 129 AD2d 967, 967 [4th Dept 1987]), we agree with the father that the paper appealed from "meets the essential requirements of an order" (*Nicol v Nicol*, 179 AD3d 1472, 1473 [4th Dept 2020]) inasmuch as it was filed "with the Court Clerk and . . . [it] resolved the [proceeding] and advised the father that he had a right to appeal" (*Matter of Louka v Shehatou*, 67 AD3d 1476, 1476 [4th Dept 2009]). We therefore treat it as an order.

Contrary to the father's contention, however, Family Court's determination to deny the father's petition has a sound and substantial basis in the record (*see generally Matter of Thurarajah v Manjula*, 184 AD3d 1130, 1131 [4th Dept 2020]; *Matter of Grayson v Lopez*, 178 AD3d 1427, 1428 [4th Dept 2019]; *Matter of Carroll v*

Carroll, 125 AD3d 1485, 1487 [4th Dept 2015], *lv denied* 25 NY3d 907 [2015]).

Entered: November 17, 2023

Ann Dillon Flynn
Clerk of the Court