

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

565

**CAF 14-00280**

PRESENT: CENTRA, J.P., PERADOTTO, CARNI, LINDLEY, AND DEJOSEPH, JJ.

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IN THE MATTER OF CHAD SPRINGSTEAD,  
PETITIONER-APPELLANT,

V

MEMORANDUM AND ORDER

SALINA WINSHIP BUNK, RESPONDENT-RESPONDENT.

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WAGNER & HART, LLP, OLEAN (JANINE FODOR OF COUNSEL), FOR  
PETITIONER-APPELLANT.

ERICKSON WEBB SCOLTON & HAJDU, LAKEWOOD (LYLE T. HAJDU OF COUNSEL),  
FOR RESPONDENT-RESPONDENT.

BROWNYN E. ENDERS, ATTORNEY FOR THE CHILD, BELFAST

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Appeal from an order of the Family Court, Cattaraugus County (Judith E. Samber, R.), entered January 10, 2014 in a proceeding pursuant to Family Court Act article 6. The order, among other things, awarded respondent sole legal and physical custody of the subject child.

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

Memorandum: In this custody proceeding pursuant to Family Court Act article 6, petitioner father appeals from an order modifying a prior order and awarding sole legal and physical custody of the parties' son to respondent mother. We affirm.

We reject the father's contention that Family Court erred in admitting evidence concerning his criminal history and conduct while incarcerated. Inasmuch as "[a] parent's criminal history may militate against an award of custody" (*Matter of Nunn v Bagley*, 63 AD3d 1068, 1069; see *Matter of Tompkins v Holmes*, 27 AD3d 846, 847; *Hilton v Hilton*, 244 AD2d 902, 903, lv dismissed 91 NY2d 922), that evidence was relevant and properly admitted. In addition, the record establishes that the court "did not place undue emphasis on the father's past criminal convictions" or on his conduct while incarcerated (*Matter of Michaellica Lee W.*, 106 AD3d 639, 640).

Contrary to the father's further contention, "there is a sound and substantial basis in the record to support the court's determination that it was in the [child's] best interests to award sole custody to the mother, and thus we will not disturb that

determination" (*Matter of Lawson v Lawson*, 111 AD3d 1393, 1393; see *Matter of Brown v Wolfgram*, 109 AD3d 1144, 1145; *Belec v Belec*, 103 AD3d 1089, 1089-1090). The record establishes that the father "is less able than [the mother] to provide for the child's stability and physical, medical, educational, moral, and emotional well-being" (*Matter of Richard C.T. v Helen R.G.*, 37 AD3d 1118, 1119; see *Matter of Weekley v Weekley*, 109 AD3d 1177, 1178-1179; see generally *Fox v Fox*, 177 AD2d 209, 210).

Entered: May 8, 2015

Frances E. Cafarell  
Clerk of the Court