

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

1237

CAF 08-01195

PRESENT: SCUDDER, P.J., HURLBUTT, GREEN, PINE, AND GORSKI, JJ.

IN THE MATTER OF RODNEY J. THAYER,
PETITIONER-RESPONDENT,

V

MEMORANDUM AND ORDER

ROSEMARY THAYER, RESPONDENT-APPELLANT.

IN THE MATTER OF ROSEMARY THAYER,
PETITIONER-APPELLANT,

V

RODNEY J. THAYER, RESPONDENT-RESPONDENT.

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ROSEMARY THAYER, RESPONDENT-APPELLANT.

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RODNEY J. THAYER, RESPONDENT-RESPONDENT.

KOSLOSKY & KOSLOSKY, UTICA (WILLIAM L. KOSLOSKY OF COUNSEL), FOR
RESPONDENT-APPELLANT AND PETITIONER-APPELLANT.

PETER J. DIGIORGIO, JR., LAW GUARDIAN, UTICA, FOR AUTUMN L.T. AND
RODNEY J.T., JR.

ABBIE GOLDBAS, LAW GUARDIAN, UTICA, FOR ASHLEY T. AND NICHOLAS T.

Appeal from an order of the Family Court, Oneida County (Randal B. Caldwell, J.), entered May 5, 2008 in a proceeding pursuant to Family Court Act article 6. The order granted the parties joint custody of their four children, with primary physical residence with petitioner-respondent, Rodney J. Thayer.

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

Memorandum: Respondent-petitioner mother appeals from an order granting the parties joint custody of their four children, with primary physical residence with petitioner-respondent father and visitation to the mother. Following a lengthy hearing, Family Court determined that the father would provide greater stability to the children and that it would be in their best interests to reside together with him. That determination, based in large part upon the court's firsthand assessment of the character and credibility of the parties, is entitled to great deference (see *Matter of Thayer v Ennis*, 292 AD2d 824). We decline to disturb that determination, inasmuch as it is supported by a sound and substantial basis in the record (see *Matter of Krug v Krug*, 55 AD3d 1373).

The mother failed to preserve for our review her contentions with respect to the tape recordings made by the father (see generally *Matter of Graham v Thering*, 55 AD3d 1319, lv denied 11 NY3d 714). In any event, the record establishes that the tape recordings did not influence the court's determination, and thus any error with respect thereto is harmless (see generally *id.*; *Matter of Mathieu v Grosser*, 5 AD3d 1069).