

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

1593

CAF 09-00621

PRESENT: HURLBUTT, J.P., SMITH, FAHEY, AND CARNI, JJ.

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IN THE MATTER OF ANDREA M. SMITH,  
PETITIONER-APPELLANT,

V

MEMORANDUM AND ORDER

JACK B. NATALI, SR., RESPONDENT-RESPONDENT.

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PALOMA A. CAPANNA, PENFIELD, FOR PETITIONER-APPELLANT.

JOHN W. GRAHAM, WATERTOWN, FOR RESPONDENT-RESPONDENT.

SETH B. BUCHMAN, LAW GUARDIAN, THREE MILE BAY, FOR JACK N., JR.

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Appeal from an order of the Family Court, Jefferson County (Peter A. Schwerzmann, J.), entered March 18, 2009 in a proceeding pursuant to Family Court Act article 6. The order, inter alia, dismissed the petition seeking custody of the parties' child.

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

Memorandum: Petitioner mother appeals from an order dismissing her petition seeking custody of her child. We reject her contention that Family Court's determination lacks a sound and substantial basis in the record and thus that the court should have granted her petition (*see Matter of Harrington v Harrington*, 63 AD3d 1618, *lv denied* 13 NY3d 705). Although there is some evidence in the record that respondent father actively interfered with the mother's relationship with the child (*see Matter of Irwin v Neyland*, 213 AD2d 773, 774), other factors support the court's determination and we accord great deference to that determination (*see Matter of Thayer v Ennis*, 292 AD2d 824, 825). The record does not support the further contention of the mother that she did not receive effective assistance of counsel (*see generally Matter of Howard v McLoughlin*, 64 AD3d 1147). We note in particular that there was extensive cross-examination of the parties, and that the court had issued decisions with respect to previous petitions by both parties and thus was familiar with the circumstances of the case.

Entered: December 30, 2009

Patricia L. Morgan  
Clerk of the Court