

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

1690

CAF 08-02488

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

IN THE MATTER OF JEAN WELLINGTON,
PETITIONER-APPELLANT,

V

MEMORANDUM AND ORDER

ANTONIO RICCARDO, JR., RESPONDENT-RESPONDENT.

ABBIE GOLDBAS, UTICA, FOR PETITIONER-APPELLANT.

ROSEMARY O. NAWKA, P.C., FAYETTEVILLE (ROSEMARY O. NAWKA OF
COUNSEL), FOR RESPONDENT-RESPONDENT.

JESSICA MANIERI, LAW GUARDIAN, HERKIMER, FOR BIANCA R. AND LUCIANO R.

Appeal from an order of the Family Court, Herkimer County
(Anthony J. Garramone, J.H.O.), entered November 20, 2008 in a
proceeding pursuant to Family Court Act article 6. The order
dismissed the petition.

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

Memorandum: Petitioner mother appeals from an order granting
respondent father's motion to dismiss the petition seeking to modify
certain stipulated provisions of the divorce judgment concerning
visitation with the parties' children. The mother has not raised any
issues with respect to that part of the order dismissing the petition
insofar as it sought termination of the father's Wednesday visitation,
and thus she is deemed to have abandoned any such issues (see *Matter
of Walters v Francisco*, 63 AD3d 1610, 1611; *Ciesinski v Town of
Aurora*, 202 AD2d 984). Family Court properly granted that part of the
motion to dismiss the petition insofar as it sought an order directing
the father to provide all transportation for visitation. The mother
failed to establish a change in circumstances since the time of the
stipulation sufficient to warrant the modification sought (see
Walters, 63 AD3d at 1611; *Matter of Gridley v Syrko*, 50 AD3d 1560,
1561).

Entered: February 11, 2010

Patricia L. Morgan
Clerk of the Court