

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

786

CAF 09-01097

PRESENT: CENTRA, J.P., FAHEY, PERADOTTO, LINDLEY, AND PINE, JJ.

---

IN THE MATTER OF ERIC R. MARTIN, SR.,  
PETITIONER-RESPONDENT,

V

MEMORANDUM AND ORDER

ROBERT A. TUCKER, RESPONDENT-APPELLANT.  
(APPEAL NO. 2.)

---

LINDA M. CAMPBELL, SYRACUSE, FOR RESPONDENT-APPELLANT.

PAUL SKAVINA, ATTORNEY FOR THE CHILD, ROME, FOR SAMANTHA A.

---

Appeal from an order of the Family Court, Oneida County (Brian M. Miga, J.H.O.), entered May 1, 2009 in a proceeding pursuant to Family Court Act article 6. The order awarded petitioner primary physical custody of the child, with joint custody with respondent and petitioner.

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

Same Memorandum as in *Matter of Tucker v Martin* (\_\_\_ AD3d \_\_\_ [July 2, 2010]).

All concur except CENTRA, J.P., and PERADOTTO, J., who dissent and vote to reverse in accordance with the same dissenting Memorandum as in *Matter of Tucker v Martin* (\_\_\_ AD3d \_\_\_ [July 2, 2010]).

Entered: July 2, 2010

Patricia L. Morgan  
Clerk of the Court