

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

1226

CAF 09-00991

PRESENT: SMITH, J.P., LINDLEY, SCONIERS, PINE, AND GORSKI, JJ.

IN THE MATTER OF LOUIS J. JACKSON,
PETITIONER-APPELLANT,

V

MEMORANDUM AND ORDER

DEBBRA K. BEACH AND JESSICA R. JACKSON,
RESPONDENTS-RESPONDENTS.

ANN LEONARD ANDERSON, ORCHARD PARK, FOR PETITIONER-APPELLANT.

RICHARD L. SOTIR, JR., ATTORNEY FOR THE CHILD, JAMESTOWN, FOR MARCEL J.

Appeal from an order of the Family Court, Chautauqua County (Stephen W. Cass, A.J.), entered March 26, 2009 in a proceeding pursuant to Family Court Act article 6. The order, among other things, dismissed a petition for modification of custody.

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

Memorandum: Petitioner father, as limited by his brief, contends on appeal that Family Court erred in dismissing his petition seeking modification of a prior custody order with prejudice following a hearing. Contrary to the father's contention, there is a sound and substantial basis in the record for the court's determination that the father did not make a sufficient showing of a change in circumstances to warrant an inquiry into whether the best interests of the subject child would be served by a change in custody (see *Matter of Amy L.M. v Kevin M.M.*, 31 AD3d 1224, 1225; see generally *Matter of Perry v Korman*, 63 AD3d 1564, 1565; *Matter of McLeod v McLeod*, 59 AD3d 1011). Indeed, the father failed to make "the requisite evidentiary showing of a 'change of circumstances warranting a reexamination of the existing custody arrangement' " (*Amy L.M.*, 31 AD3d at 1225).

Entered: November 12, 2010

Patricia L. Morgan
Clerk of the Court