

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

1498

CAF 10-01424

PRESENT: CENTRA, J.P., LINDLEY, SCONIERS, GREEN, AND GORSKI, JJ.

IN THE MATTER OF DELORES M. WEBB,
PETITIONER-APPELLANT,

V

MEMORANDUM AND ORDER

MAURICE AARON, RESPONDENT-RESPONDENT.

FEUERSTEIN AND SMITH, L.L.P., BUFFALO (JAMIE L. CODJOVI OF COUNSEL),
FOR PETITIONER-APPELLANT.

JOSEPH C. BANIA, ATTORNEY FOR THE CHILD, BUFFALO, FOR SOLVEIG A.

Appeal from an order of the Family Court, Erie County (Sharon M. LoVallo, A.J.), entered February 10, 2010 in a proceeding pursuant to Family Court Act article 6. The order denied the petition for leave to relocate with 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 that, *inter alia*, denied her petition seeking to modify a prior order of custody and visitation by granting permission for the parties' daughter to relocate with her to California. We affirm. In seeking such permission, the mother was required to establish by a preponderance of the evidence that the proposed relocation would be in the daughter's best interests (*see Matter of Tropea v Tropea*, 87 NY2d 727, 741) and, as Family Court properly determined, the mother failed to meet that burden. In considering the factors set forth in *Tropea*, the court properly determined that the mother failed to establish that her daughter's life and her own life would "be enhanced economically, emotionally and educationally by the [relocation]" (*id.*; *see Matter of Murphy v Peace*, 72 AD3d 1626, 1626-1627; *Matter of Jones v Tarnawa*, 26 AD3d 870, 871, *lv denied* 6 NY3d 714). The court also properly determined that the relationship of the daughter with respondent father and other relatives, particularly those who provided frequent and meaningful support in the Buffalo area, would be adversely affected by the proposed relocation (*see Matter of Chancer v Stowell*, 5 AD3d 1082; *Matter of Guiffrida v Adams*, 277 AD2d 948; *see generally Tropea*, 87 NY2d at 740). Furthermore, the mother failed to establish that there was a visitation arrangement that would be conducive to the maintenance of a close relationship between the daughter and the father (*cf. Matter of Parish A. v Jamie T.*, 49 AD3d 1322, 1323; *see*

generally Tropea, 87 NY2d at 738).

Entered: December 30, 2010

Patricia L. Morgan
Clerk of the Court