

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

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CAF 10-00293

PRESENT: SCUDDER, P.J., SMITH, LINDLEY, GREEN, AND MARTOCHE, JJ.

IN THE MATTER OF TRACY ANDERSON,
PETITIONER-APPELLANT,

V

MEMORANDUM AND ORDER

SARAH RONCONE, RESPONDENT-RESPONDENT.

CHARLES J. GREENBERG, BUFFALO, FOR PETITIONER-APPELLANT.

ELIZABETH J. CIAMBRONE, BUFFALO, FOR RESPONDENT-RESPONDENT.

KENNETH W. GIBBONS, ATTORNEY FOR THE CHILDREN, BUFFALO, FOR CHEYENNE
R. AND JEFFREY R., JR.

Appeal from an order of the Family Court, Erie County (Patricia A. Maxwell, J.), entered January 20, 2010 in a proceeding pursuant to Family Court Act article 6. The order denied the petition for visitation.

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

Memorandum: Petitioner mother appeals from an order that denied her petition seeking to modify a prior order of custody and visitation by providing her with unsupervised visitation with two of her children. Those children are in the custody of respondent, their paternal aunt. "An order of visitation cannot be modified unless there has been a sufficient change in circumstances since the entry of the prior order [that], if not addressed, would have an adverse effect on the children's best interests" (*Matter of Neeley v Ferris*, 63 AD3d 1258, 1259; see *Matter of Taylor v Fry*, 63 AD3d 1217, 1218). Here, the mother failed to demonstrate such a change in circumstances, and the record supports Family Court's determination that the best interests of the children would be served by continuing the requirement that visitation be supervised (see *Matter of Burczynski v Rodgers*, 61 AD3d 1401; *Matter of De Cicco v De Cicco*, 29 AD3d 1095, 1096).

Entered: February 10, 2011

Patricia L. Morgan
Clerk of the Court