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

1410
CAF 11-02240
PRESENT: SCUDDER, P.J., CENTRA, FAHEY, CARNI, AND VALENTINO, JJ.

IN THE MATTER OF CINDY M. PHELPS AND AUGUSTUS T.
PHELPS, PETITIONERS-RESPONDENTS,

                V   MEMORANDUM AND ORDER

EUGENE DEXTER HUNTER, RESPONDENT-APPELLANT.

FRANK H. HISCOCK LEGAL AID SOCIETY, SYRACUSE (PIOTR BANASIAK OF
COUNSEL), FOR RESPONDENT-APPELLANT.

ROBERT F. RHINEHART, SYRACUSE, FOR PETITIONERS-RESPONDENTS.

KAREN J. DOCTER, ATTORNEY FOR THE CHILD, FAYETTEVILLE, FOR SHAKIR E.H.

     Appeal from an order of the Family Court, Onondaga County
(Salvatore Pavone, R.), entered October 7, 2011 in a proceeding
pursuant to Family Court Act article 6. The order, among other
things, awarded sole legal and physical custody of the subject child
to petitioners.

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

     Memorandum: Respondent father appeals from an order granting the
nonparent petitioners sole legal and physical custody of the father's
minor child. We affirm for reasons stated in the amended findings of
fact and decision at Family Court. We add only that there is no merit
to the father's contention that the Court Attorney Referee lacked
jurisdiction to hear and determine the matter (*see generally* CPLR 4317
[a]). The father signed the requisite consent and, although he signed
that consent before being informed of his right to counsel pursuant to
Family Court Act § 262 (a), he and his attorney willingly participated
in the subsequent proceedings without objection and with the full
knowledge that the Court Attorney Referee would adjudicate the merits
of the petition (*see Matter of Carlos G. [Bernadette M.]*, 96 AD3d 632,
633; *1199 Hous. Corp. v Jimco Restoration Corp.*, 77 AD3d 502, 502;
Dodge v Lynch, 55 AD3d 314, 315, *lv denied* 11 NY3d 713; *cf. Matter of
Gale v Gale*, 87 AD3d 1011, 1012; *Matter of Osmundson v Held-Cummings*,
306 AD2d 950, 950-951).

Entered: December 21, 2012   Frances E. Cafarell
                                            Clerk of the Court