

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

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CAF 09-00998

PRESENT: SMITH, J.P., FAHEY, CARNI, SCONIERS, AND PINE, JJ.

IN THE MATTER OF JOHN R. GOOSSEN,
PETITIONER-RESPONDENT,

V

MEMORANDUM AND ORDER

KAREN A. GOOSSEN, RESPONDENT-APPELLANT.

TIMOTHY P. DONAHER, PUBLIC DEFENDER, ROCHESTER (JANET C. SOMES OF COUNSEL), FOR RESPONDENT-APPELLANT.

MICHAEL D. SCHMITT, LAW GUARDIAN, ROCHESTER, FOR JOHN G., JR., GAVIN G., EMILY G., DANE G., LAUREN G. AND MARINA G.

Appeal from an order of the Family Court, Monroe County (Joan S. Kohout, J.), entered December 19, 2008 in a proceeding pursuant to Family Court Act article 6. The order, insofar as appealed from, granted that part of the petition seeking sole custody of the parties' two younger children.

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

Memorandum: Respondent mother appeals, as limited by her brief, from an order insofar as it granted that part of petitioner father's petition seeking sole custody of the parties' two youngest children. We affirm. Family Court's determination following a hearing that the best interests of those children would be served by an award of sole custody to the father is entitled to great deference (*see generally Eschbach v Eschbach*, 56 NY2d 167, 173-174). "Among the factors to be considered [in determining whether the best interests of the children will be served by a change in custody] are the quality of the home environment and the parental guidance the custodial parent provides for the child[ren] . . . , the ability of each parent to provide for the child[ren's] emotional and intellectual development . . . , the financial status and ability of each parent to provide for the child[ren] . . . , the relative fitness of the respective parents, and the length of time the present custody arrangement has been in effect" (*Matter of Krebsbach v Gallagher*, 181 AD2d 363, 364, *lv denied* 81 NY2d 701; *see Matter of Kristi L.T. v Andrew R.V.*, 48 AD3d 1202, 1204, *lv denied* 10 NY3d 716). Here, we do not disturb the court's determination inasmuch as the record establishes that "it is based on careful weighing of [the] appropriate factors" (*Matter of Pinkerton v Pensyl*, 305 AD2d 1113, 1114), and it has a sound and substantial basis in the record (*see Matter of Krug v Krug*, 55 AD3d 1373; *Matter of*

Angel M.S. v Thomas J.S., 41 AD3d 1227; *Matter of Amy L.W. v Brendan K.H.*, 37 AD3d 1060).

We have considered the mother's remaining contentions and conclude that they are without merit.

Entered: April 30, 2010

Patricia L. Morgan
Clerk of the Court