

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

1431

CAF 14-00136

PRESENT: SCUDDER, P.J., CENTRA, CARNI, AND SCONIERS, JJ.

IN THE MATTER OF DANA P. BROWN,
PETITIONER-APPELLANT,

V

MEMORANDUM AND ORDER

VICKI L. HEUBUSCH, RESPONDENT-RESPONDENT.

WYOMING COUNTY-ATTICA LEGAL AID BUREAU, WARSAW (ADAM W. KOCH OF
COUNSEL), FOR PETITIONER-APPELLANT.

WILLIAM D. BRODERICK, JR., ATTORNEY FOR THE CHILDREN, ELMA.

Appeal from an order of the Family Court, Wyoming County (Michael F. Griffith, J.), entered November 26, 2013 in a proceeding pursuant to Family Court Act article 8. The order dismissed the petition.

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

Memorandum: In this proceeding pursuant to article 8 of the Family Court Act, petitioner father appeals from an order that dismissed his petition for lack of jurisdiction. We affirm. The father concedes that respondent mother moved with the children to Florida more than six months before the filing of the petition, and there is no evidence that they ever returned to New York. The record establishes that the children no longer "have a significant connection" with New York and that "substantial evidence is no longer available in this [S]tate concerning the child[ren]'s care, protection, training, and personal relationships" (Domestic Relations Law § 76-a [1] [a]), and the father failed to submit any evidence to the contrary. We therefore conclude that Family Court properly dismissed the petition for lack of jurisdiction (*see Matter of Maida v Capraro*, 86 AD3d 924, 924; *Matter of Zippo v Zippo*, 41 AD3d 915, 916).

We have considered the father's remaining contention and conclude that it is without merit.

Entered: January 2, 2015

Frances E. Cafarell
Clerk of the Court