

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

470

CAF 13-01932

PRESENT: SMITH, J.P., CARNI, LINDLEY, SCONIERS, AND DEJOSEPH, JJ.

IN THE MATTER OF CANDIE A. FOSTER,
PETITIONER-APPELLANT,

V

MEMORANDUM AND ORDER

ANDREW J. FOSTER, RESPONDENT-RESPONDENT.

PAUL M. DEEP, UTICA, FOR PETITIONER-APPELLANT.

COHEN & COHEN LLP, UTICA (RICHARD A. COHEN OF COUNSEL), FOR
RESPONDENT-RESPONDENT.

JOHN J. RASPANTE, ATTORNEY FOR THE CHILD, UTICA.

Appeal from an order of the Family Court, Oneida County (Randal B. Caldwell, J.), entered October 11, 2013 in a proceeding pursuant to Family Court Act article 6. The order denied the petition.

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

Memorandum: Petitioner mother appeals from an order denying her petition, following a hearing, seeking to modify a prior custody order that, inter alia, granted primary physical custody of the subject child to respondent father. "A party seeking a change in an established custody arrangement must show a change in circumstances [that] reflects a real need for change to ensure the best interest[s] of the child" (*Matter of Gross v Gross*, 119 AD3d 1453, 1453 [internal quotation marks omitted]). Contrary to the mother's contention, we conclude that Family Court's determination that she failed to meet that burden has a sound and substantial basis in the record (see *Matter of Rauch v Keller*, 77 AD3d 1409, 1410).

Entered: May 1, 2015

Frances E. Cafarell
Clerk of the Court