

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

545

CAF 20-00587

PRESENT: CENTRA, J.P., PERADOTTO, CURRAN, WINSLOW, AND DEJOSEPH, JJ.

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IN THE MATTER OF GREGORY D. ETTTEL,  
PETITIONER-APPELLANT,

V

MEMORANDUM AND ORDER

BILLIE J. ETTTEL, RESPONDENT-RESPONDENT.

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PETER J. DIGIORGIO, JR., UTICA, FOR PETITIONER-APPELLANT.

KACIE M. CROUSE, UTICA, ATTORNEY FOR THE CHILD.

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Appeal from an order of the Family Court, Herkimer County (Anthony J. Garramone, J.H.O.), dated February 4, 2020 in a proceeding pursuant to Family Court Act article 6. The order dismissed the petition seeking to modify a prior order of custody and visitation.

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

Memorandum: In this proceeding pursuant to Family Court Act article 6, petitioner father appeals from an order that dismissed his petition seeking to modify a prior order of custody and visitation. Contrary to the father's contention, we conclude that Family Court did not abuse its discretion in dismissing his petition without conducting a hearing. "A hearing is not automatically required whenever a parent seeks modification of a custody [or visitation] order" and, here, the father failed to "make a sufficient evidentiary showing of a change in circumstances to require a hearing" (*Matter of Di Fiore v Scott*, 2 AD3d 1417, 1417-1418 [4th Dept 2003] [internal quotation marks omitted]; see *Matter of Williams v Reid*, 187 AD3d 1593, 1594-1595 [4th Dept 2020]; *Matter of Fowler v VanGee*, 136 AD3d 1320, 1320 [4th Dept 2016]).

Entered: June 11, 2021

Mark W. Bennett  
Clerk of the Court