

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

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**CAF 21-01129**

PRESENT: SMITH, J.P., LINDLEY, NEMOYER, WINSLOW, AND BANNISTER, JJ.

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IN THE MATTER OF ERIN M. SHEPHERD,  
PETITIONER-RESPONDENT-APPELLANT,

V

MEMORANDUM AND ORDER

THAD A. SHEPHERD, JR.,  
RESPONDENT-PETITIONER-RESPONDENT.

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LAW OFFICE OF VERONICA REED, SCHENECTADY (VERONICA REED OF COUNSEL),  
FOR PETITIONER-RESPONDENT-APPELLANT.

KAMAN BERLOVE LLP, ROCHESTER (GARY MULDOON OF COUNSEL), FOR  
RESPONDENT-PETITIONER-RESPONDENT.

ANDREW G. MORABITO, EAST ROCHESTER, ATTORNEY FOR THE CHILDREN.

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Appeal from an order of the Family Court, Wayne County (Richard M. Healy, J.), entered June 24, 2021 in a proceeding pursuant to Family Court Act article 6. The order, among other things, granted respondent-petitioner sole legal custody of the subject children.

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-respondent mother appeals from an order that, inter alia, effectively granted the cross petition of respondent-petitioner father insofar as the cross petition sought sole custody of the parties' two minor children. We affirm. The mother's contention that Family Court should have ordered a forensic evaluation for consideration in the analysis of the best interests of the children is unreserved for our review (*see Matter of Garrick v Simon*, 197 AD3d 1316, 1316-1317 [2d Dept 2021]; *see also Matter of Canfield v McCree*, 90 AD3d 1653, 1654 [4th Dept 2011]).

We reject the mother's further contention that the court erred in granting the father sole custody of the subject children. "[A] court's determination regarding custody . . . issues, based upon a first-hand assessment of the credibility of the witnesses after an evidentiary hearing, is entitled to great weight" (*Matter of Saunders v Stull*, 133 AD3d 1383, 1383 [4th Dept 2015] [internal quotation marks omitted]), and such a determination "will not be disturbed as long as it is supported by a sound and substantial basis in the record" (*Sheridan v Sheridan*, 129 AD3d 1567, 1568 [4th Dept 2015]). Here, the

court's custody determination is supported by a sound and substantial basis in the record (see *Matter of Benson v Smith*, 178 AD3d 1430, 1431 [4th Dept 2019]). Contrary to the mother's contention, joint custody was not appropriate given the parties' acrimonious relationship (see *id.*).

Entered: July 8, 2022

Ann Dillon Flynn  
Clerk of the Court