

SUPREME COURT OF THE STATE OF NEW YORK, APPELLATE DIVISION,
SECOND JUDICIAL DEPARTMENT

Matter of Bartlett v. Perry

2026 NY Slip Op 00369 · No. 2024-08755 · Decided January 28, 2026

SUMMARY

The Appellate Division, Second Department affirmed a Family Court order modifying a custody stipulation and awarding the father sole legal and physical custody of the parties’ children. The court held that a sufficient change in circumstances supported modification and that the custody determination had a sound and substantial basis in the record.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, Second Judicial Department
WRITING FOR THE COURT	Lara J. Genovesi, J.P.; Linda Christopher, J.; Barry E. Warhit, J.; Lourdes M. Ventura, J.
JURISDICTION	Supreme Court of the State of New York, Appellate Division, Second Judicial Department
DECIDED	January 28, 2026
DOCKET	2024-08755
DISPOSITION	affirmed
PROCEDURAL POSTURE	The mother appealed from a corrected order of the Family Court, Kings County, which, after a hearing, granted the father's petition to modify a so-ordered custody stipulation and awarded him sole legal and physical custody of the parties' children.
STANDARD OF REVIEW	Custody and parental-access determinations are accorded great deference because the Family Court assesses witness credibility and the parties' character, temperament, and sincerity; its findings will not be disturbed unless they lack a sound and substantial basis in the record.
PRECEDENTIAL VALUE	Published New York Appellate Division opinion
PARTIES	Shaleen Perry v. Larry Bartlett

TOPICS

child custody

family law procedure

appellate procedure

standard of review

parental rights

PRACTICE AREAS

family law

child custody

appellate procedure

QUESTIONS PRESENTED

1. Whether the father established a sufficient change in circumstances warranting modification of the parties' court-approved custody stipulation.
2. Whether awarding the father sole legal and physical custody served the children's best interests and was supported by a sound and substantial basis in the record.
3. Whether the mother was deprived of the effective assistance of counsel in the Family Court proceeding.

HOLDINGS

1. A court-approved stipulation setting forth custody or parental-access terms may be modified only upon a showing of a sufficient change in circumstances such that modification is necessary to ensure the child's best interests and welfare.
2. The paramount concern in determining custody is the children's best interests under the totality of the circumstances, and the award of sole legal and physical custody to the father was supported by a sound and substantial basis in the record.
3. The mother was not deprived of the effective assistance of counsel because her attorney provided meaningful representation.

KEY QUOTATIONS

“Modification of a court-approved stipulation setting forth the terms of custody or parental access is permissible only upon a showing that there has been a sufficient change in circumstances such that modification is necessary to ensure the best interests and welfare of the child” ([*1])

“The paramount concern when making such a determination is the best interests of the child under the totality of the circumstances” ([*1])

“Since the Family Court's determination with respect to custody and parental access depends to a great extent upon its assessment of the credibility of the witnesses and upon the character, temperament, and sincerity of the parties, its findings are generally accorded great deference and will not be disturbed unless they lack a sound and substantial basis in the record” ([*1]-[*2])

FACTUAL BACKGROUND

The unmarried parties are the parents of two children. Their April 21, 2021, so-ordered stipulation awarded the mother sole legal and physical custody and established a parental-access schedule. After a hearing on the father's modification petition, the Family Court found a sufficient change in circumstances and awarded the father sole legal and physical custody, concluding that he was better suited to promote stability and more likely to foster the mother's relationship with the children.

PROCEDURAL HISTORY

The parties entered into a so-ordered stipulation on April 21, 2021, awarding the mother sole legal and physical custody and establishing a parental-access schedule. In October 2022, the father petitioned to modify that stipulation and obtain sole legal and physical custody. Following a hearing, the Family Court granted the petition in a corrected order dated July 16, 2024. The Appellate Division affirmed insofar as appealed from.

DISPOSITION

affirmed

CASES CITED

- Matter of Burke v Squires, 202 AD3d 784, 785
- Matter of Fiore v Gima, 227 AD3d 1071, 1073
- Matter of Shepherd v Mirukaj, 235 AD3d 769, 770
- Eschbach v Eschbach, 56 NY2d 167, 171
- Matter of Freyer v Macruari, 234 AD3d 755, 756
- Matter of Watling v Watling, 236 AD3d 1047, 1048
- Sukul v Sukul, 196 AD3d 661, 663
- Matter of Cadet v Lamour, 86 AD3d 538, 539
- Matter of Brathwaite v Lightsey, 242 AD3d 883, 885
- Matter of Clarke v Clarke, 222 AD3d 751, 752
- Matter of Thomas v Thomas, 221 AD3d 609, 610
- Matter of Picitelli v Carbone, 208 AD3d 582, 585

OPINION

PER CURIAM.

Matter of Bartlett v Perry (2026 NY Slip Op 00369) Matter of Bartlett v Perry 2026 NY Slip Op 00369 Decided on January 28, 2026 Appellate Division, Second Department Published by New York State Law Reporting Bureau pursuant to Judiciary Law § 431. This opinion is uncorrected and subject to revision before publication in the Official Reports. Decided on January 28, 2026 SUPREME COURT OF THE STATE OF NEW YORK Appellate Division, Second Judicial Department LARA J. GENOVESI, J.P.

LINDA CHRISTOPHER BARRY E. WARHIT LOURDES M. VENTURA, JJ. 2024-08755 (Docket Nos. V-15367-18/22C, V-15368-18/22C, V-15367-18/22D, V-15368-18/22D, V-15367-18/23E, V-15368-18/23E, V-15367-18/23F, V-15368-18/23F, V-15367-18/23G, V-15368-18/23G) [*1]In the Matter of Larry Bartlett, respondent, v Shaleen Perry, appellant. Diana Kelly, Jamaica, NY, for appellant.

Rhea G. Friedman, New York, NY, for respondent. Liberty Aldrich, Brooklyn, NY (Rachel J. Stanton and Janet Neustaetter of counsel), attorney for the children. DECISION & ORDER In a proceeding pursuant to Family Court Act article 6, the mother appeals from a corrected order of the Family Court, Kings County (Nisha Menon, J.), dated July 16, 2024.

The corrected order, insofar as appealed from, after a hearing, granted the father's petition to modify a so-ordered stipulation dated April 21, 2021, so as to award him sole legal and physical custody of the parties' children. ORDERED that the corrected order is affirmed insofar as appealed from, without costs or disbursements.

The mother and the father, who were never married to each other, are the parents of two children. On April 21, 2021, the parties entered into a so-ordered stipulation that awarded the mother sole legal and physical custody of the children and set forth a parental access schedule.

In October 2022, the father filed a petition to modify the so-ordered stipulation so as to award him sole legal and physical custody of the children. After a hearing, in an order dated July 16, 2024, the Family Court, inter alia, granted the father's petition.

The mother appeals. "Modification of a court-approved stipulation setting forth the terms of custody or parental access is permissible only upon a showing that there has been a sufficient change in circumstances such that modification is necessary to ensure the best interests and welfare of the child" (*Matter of Burke v Squires*, 202 AD3d 784, 785; see *Matter of Fiore v Gima*, 227 AD3d 1071, 1073).

"The paramount concern when making such a determination is the best interests of the child under the totality of the circumstances" (*Matter of Shepherd v Mirukaj*, 235 AD3d 769, 770; see *Eschbach v Eschbach*, 56 NY2d 167, 171). "Since the Family Court's determination with respect to custody and parental access depends to a great extent upon its assessment of the credibility of the witnesses and upon the character, temperament, and sincerity of the parties, its findings are generally accorded great deference and will not be disturbed unless they lack a sound and substantial basis in [*2]the record" (*Matter of Freyer v Macruari*, 234 AD3d 755, 756 [internal quotation marks omitted]; see *Matter of Watling v Watling*, 236 AD3d 1047, 1048).

Here, the Family Court properly determined that a change in circumstances existed to warrant modification of the so-ordered stipulation (see *Sukul v Sukul*, 196 AD3d 661, 663; *Matter of Cadet v Lamour*, 86 AD3d 538, 539). Further, the court's determination to award the father sole legal and physical custody was supported by a sound and substantial basis in the record.

Accepting the court's credibility determinations, the evidence adduced at the hearing demonstrated, among other things, that the father is better suited to promote stability in the children's lives and is more likely to foster the other parent's relationship with the children (see

Matter of Brathwaite v Lightsey, 242 AD3d 883, 885; Matter of Clarke v Clarke, 222 AD3d 751, 752).

Viewing the record as a whole, the mother was not deprived of the effective assistance of counsel, as her counsel provided meaningful representation (see Matter of Thomas v Thomas, 221 AD3d 609, 610; Matter of Picitelli v Carbone, 208 AD3d 582, 585). GENOVESI, J.P., CHRISTOPHER, WARHIT and VENTURA, JJ., concur. ENTER: Darrell M. Joseph Clerk of the Court