

APPELLATE DIVISION OF THE SUPREME COURT OF THE STATE OF NEW YORK, FOURTH DEPARTMENT

Matter of Billett v. Gordon

2026 NY Slip Op 04096 (N.Y. Ct. App. 2026) · No. 451 CAF 25-00389 · Decided June 26, 2026

SUMMARY

The New York Appellate Division, Fourth Department, unanimously affirmed an order modifying custody and awarding the father primary physical residence of the child. The court concluded that the totality of the circumstances supported the determination that the change was in the child's best interests, including enrollment in the father's school district.

CASE DETAILS

COURT	Appellate Division of the Supreme Court of the State of New York, Fourth Department
WRITING FOR THE COURT	Curran, J.P.; Bannister, J.; Montour, J.; Greenwood, J.; Hannah, J.
JURISDICTION	New York Appellate Division, Fourth Department
DECIDED	June 26, 2026
DOCKET	451 CAF 25-00389
DISPOSITION	affirmed
PROCEDURAL POSTURE	Mother and the Attorney for the Child appealed from a Family Court order modifying a prior custody and visitation order and awarding the father primary physical residence of the child.
STANDARD OF REVIEW	The appellate court independently reviewed the record and exercised custody-review authority as broad as Family Court's authority to determine whether the child's best interests supported modification of primary physical residence.
PRECEDENTIAL VALUE	Published opinion
PARTIES	Sharron C. Gordon, Gary Muldoon, Attorney for the Child v. Jeremy P. Billett

TOPICS

- child custody
- visitation
- family law procedure
- appellate procedure
- standard of review

PRACTICE AREAS

family law

appellate procedure

QUESTIONS PRESENTED

1. Whether Family Court properly modified the prior custody and visitation order after an undisputed change in circumstances.
2. Whether the child's best interests supported awarding the father primary physical residence and enrolling the child in the school district where the father lives.
3. Whether Family Court's failure to specify the factors supporting its best-interests analysis required reversal or modification.

HOLDINGS

1. Family Court properly modified the prior order because the totality of the circumstances supported a finding that the child's best interests would be served by primary physical residence with the father.
2. Family Court's failure to specify the factors it relied upon did not require reversal because the appellate record was sufficient for the appellate court to make its own best-interests determination.

KEY QUOTATIONS

*“Our authority in determinations of custody is as broad as that of Family Court . . . and where, as here, the record is sufficient for this Court to make a best interests determination . . . , we will do so in the interests of judicial economy and the well-being of the child” (*1)*

FACTUAL BACKGROUND

The parties had a prior order governing custody and visitation of their child. The parties did not dispute that a change in circumstances had occurred sufficient to warrant consideration of modifying that order. After reviewing the relevant best-interests factors, including the home environments, the parents' ability to support the child's emotional and intellectual development, and their financial circumstances, the court concluded that the child's primary residence should be with the father and that the child should attend the father's school district.

PROCEDURAL HISTORY

Family Court, Wayne County, entered an order on January 31, 2025, that modified the parties' prior custody and visitation order and awarded the father primary physical residence of the child. The mother and the Attorney for the Child appealed. The Fourth Department unanimously affirmed without costs.

DISPOSITION

affirmed

CASES CITED

- Matter of Cooley v. Roloson, 201 A.D.3d 1299, 1299-1300 (4th Dep't 2022)

- Matter of Muriel v. Muriel, 179 A.D.3d 1529, 1529 (4th Dep't 2020), lv. denied, 35 N.Y.3d 908 (2020)
- Matter of Nordee v. Nordee, 170 A.D.3d 1636, 1636-1637 (4th Dep't 2019), lv. denied, 33 N.Y.3d 909 (2019)
- Matter of Fenton v. Smith, 240 A.D.3d 1242, 1243 (4th Dep't 2025)
- Matter of Manioci v. Schreiber, 210 A.D.3d 1523, 1523 (4th Dep't 2022), lv. denied, 39 N.Y.3d 907 (2023)
- Matter of Howell v. Lovell, 103 A.D.3d 1229, 1231 (4th Dep't 2013)
- Matter of Bryan K.B. v. Destiny S.B., 43 A.D.3d 1448, 1450 (4th Dep't 2007)
- Fox v. Fox, 177 A.D.2d 209, 210 (4th Dep't 1992)
- Matter of Torres v. Pfeiffer, 235 A.D.3d 1261, 1262 (4th Dep't 2025)
- Matter of Dinoff v. Knechtel, 224 A.D.3d 1288, 1290 (4th Dep't 2024)
- Matter of Hernandez v. McGowan, 246 A.D.3d 1482, 1483 (4th Dep't 2026)
- Matter of Verne v. Hamilton, 191 A.D.3d 1433, 1434 (4th Dep't 2021)

OPINION

Matter of Billett v. Gordon 2026 NY Slip Op 04096

PER CURIAM.

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IN THE MATTER OF JEREMY P. BILLETT, PETITIONER-RESPONDENT-RESPONDENT,
v SHARRON C. GORDON, RESPONDENT-PETITIONER-APPELLANT. -----

----- GARY MULDOON, ESQ., ATTORNEY FOR THE CHILD,
APPELLANT. Supreme Court of the State of New York, Appellate Division, Fourth Judicial
Department Decided on June 26, 2026

451 CAF 25-00389

Present: Curran, J.P., Bannister, Montour, Greenwood, And Hannah, JJ. TYSON BLUE, MACEDON, FOR RESPONDENT-PETITIONER-APPELLANT. GARY MULDOON, ROCHESTER, ATTORNEY FOR THE CHILD, APPELLANT PRO SE. Appeals from an order of the Family Court, Wayne County (John L. Grow, J.), entered January 31, 2025, in a proceeding pursuant to Family Court Act article 6. The order, inter alia, granted petitioner-respondent primary physical residence of the subject child. [*1] 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, respondent-petitioner mother and the Attorney for the Child (AFC) each appeal from an order that, inter alia, modified the parties' prior order of custody and visitation by awarding primary physical residence of the subject child to petitioner-respondent father. We affirm. Preliminarily, we note that the mother and the AFC do not dispute that there has been a

change in circumstances sufficient to warrant an inquiry into whether a modification of the prior order is in the child's best interests (see generally *Matter of Cooley v Roloson* , 201 AD3d 1299 , 1299-1300 [4th Dept 2022]; *Matter of Muriel v Muriel* , 179 AD3d 1529, 1529 [4th Dept 2020], lv denied 35 NY3d 908 [2020]; *Matter of Nordee v Nordee* , 170 AD3d 1636 , 1636-1637 [4th Dept 2019], lv denied 33 NY3d 909 [2019]), and thus the issue before us is whether Family Court properly determined that the best interests of the child would be served by a change in primary physical residence (see *Matter of Fenton v Smith* , 240 AD3d 1242 , 1243 [4th Dept 2025]; *Matter of Manioci v Schreiber* , 210 AD3d 1523, 1523 [4th Dept 2022], lv denied 39 NY3d 907 [2023]). Contrary to the contentions of the mother and the AFC, we conclude that the court did not err in modifying the prior order. Although the court did not specify the factors it relied on in conducting its best interests analysis (see *Matter of Howell v Lovell* , 103 AD3d 1229, 1231 [4th Dept 2013]), "[o]ur authority in determinations of custody is as broad as that of Family Court . . . and where, as here, the record is sufficient for this Court to make a best interests determination . . . , we will do so in the interests of judicial economy and the well-being of the child" (*Matter of Bryan K.B. v Destiny S.B.* , 43 AD3d 1448, 1450 [4th Dept 2007]; see *Howell* , 103 AD3d at 1231). Among the factors for the court to consider are the "quality of the child's home environment and that of the parent seeking custody; . . . the ability of each parent to provide for the child's emotional and intellectual development; [and] the financial status and ability of each parent to provide for the child" (*Fox v Fox* , 177 AD2d 209, 210 [4th Dept 1992]; see *Matter of [*2] Torres v Pfeiffer* , 235 AD3d 1261 , 1262 [4th Dept 2025]; *Matter of Dinoff v Knechtel* , 224 AD3d 1288 , 1290 [4th Dept 2024]). Here, after reviewing the appropriate factors, we conclude that the totality of the circumstances supports the determination that it is in the best interests of the child to have primary residence with the father and to be enrolled in the school district in which the father lives (see *Matter of Hernandez v McGowan* , 246 AD3d 1482 , 1483 [4th Dept 2026]; *Matter of Verne v Hamilton* , 191 AD3d 1433, 1434 [4th Dept 2021]). We have considered the remaining contentions of the mother and the AFC on their respective appeals and conclude that none warrants modification or reversal of the order. Entered: June 26, 2026 Ann Dillon Flynn Clerk of the Court

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