

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

Matter of Hercsky v. Evans

2026 NY Slip Op 00129 (Supreme Court of the State of New York Appellate Division Second Judicial
Department 2026) · No. 2024-00036 · Decided January 14, 2026

OPINION

Matter of Hercsky v. Evans 2026 NY Slip Op 00129

PER CURIAM.

Matter of Hercsky v Evans (2026 NY Slip Op 00129) Matter of Hercsky v Evans 2026 NY Slip Op 00129 Decided on January 14, 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 14, 2026

SUPREME COURT OF THE STATE OF NEW YORK

Appellate Division, Second Judicial Department ANGELA G. IANNACCI, J.P.

PAUL WOOTEN

DEBORAH A. DOWLING

JAMES P. MCCORMACK, JJ. 2024-00036

(Docket Nos. V-16214-15/19B, V-16214-15/19D V-20020-15/19B, V-20020-15/19D) [*1]In the Matter of Jeantov Hercsky, appellant, v Jacqueline Evans, respondent. (Proceeding No. 1.) In the Matter of Jacqueline Evans, respondent,Jeantov Hercsky, appellant. (Proceeding No. 2.) Darla A. Filiberto, Islandia, NY, for appellant. Louis L. Sternberg, Hauppauge, NY, for respondent. Laura C. Golightly, Islandia, NY, attorney for the child. DECISION & ORDER In related proceedings pursuant to Family Court Act article 6, the father appeals from an order of the Family Court, Suffolk County (Matthew Hughes, J.), dated November 29, 2023. The order, insofar as appealed from, after a hearing, in effect, granted that branch of the mother's petition which was to modify a so-ordered stipulation of custody and parental access dated June 6, 2016, so as to award her sole legal and residential custody of the parties' child, and denied that branch of the father's petition which was to modify the so-ordered stipulation of custody and parental access so as to award him sole legal and residential custody of the child. ORDERED that the order is affirmed insofar as appealed from, without costs or disbursements. The father and the mother are the parents of one child, born in 2014. Pursuant to a so-ordered stipulation of custody and parental access dated June 6, 2016 (hereinafter the stipulation), the parties agreed, among other things, to share joint legal custody of the child, that the mother would have primary residential custody of the child, and that the father would have certain parental access with the child. The stipulation further provided that either party could seek a de novo determination of the custody and/or

parental access provisions as of January 2019. In March 2019, the father commenced a proceeding, inter alia, to modify the stipulation so as to award him sole legal and residential custody of the child. In October 2019, the mother commenced a proceeding, among other things, to modify the stipulation so as to award her sole legal and residential custody of the child. In an order dated November 29, 2023, after a hearing, the Family Court, inter alia, in effect, granted that branch of the mother's petition which was to modify the stipulation so as to award her sole legal and residential custody of the child and denied [*2]that branch of the father's petition which was to modify the stipulation so as to award him sole legal and residential custody of the child. The father appeals. The court's paramount concern in any custody dispute is to determine, under the totality of the circumstances, what is in the best interests of the child (see *Eschbach v Eschbach* , 56 NY2d 167, 171 ; *Matter of Pollack v Slasten* , 237 AD3d 720 , 721; *Matter of Rennie v Cooks* , 195 AD3d 622). Inasmuch as a court's custody determination is dependent in large part upon its assessment of the witnesses' credibility and upon the character, temperament, and sincerity of the parents, the court's exercise of its discretion will not be disturbed if supported by a sound and substantial basis in the record (see *Matter of Garrick v Simon* , 197 AD3d 1316, 1316 ; *Matter of Rennie v Cooks* , 195 AD3d at 622 ; *Matter of Supangkat v Torres* , 101 AD3d 889, 890). Here, the Family Court's determination that the child's best interests would be served by awarding sole legal and residential custody to the mother has a sound and substantial basis in the record and will not be disturbed (see *Matter of Garrick v Simon* , 197 AD3d at 1316 ; *Matter of Rennie v Cooks* , 195 AD3d at 622 ; *Matter of Murphy v Lewis* , 149 AD3d 748, 749). The mother's remaining contention is without merit. IANNACCI, J.P., WOOTEN, DOWLING and MCCORMACK, JJ., concur. ENTER: Darrell M. Joseph Clerk of the Court