

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

Matter of Montalbano v. Babcock

2017 NY Slip Op 08118 (N.Y. Ct. App. 2017) · No. 1165 CAF 16-01541 · Decided November 17, 2017

SUMMARY

The Appellate Division, Fourth Department, dismissed an appeal from an Oswego County Family Court order in a Family Court Act article 6 proceeding. The underlying order awarded the petitioner sole legal custody of the subject child, and the court adopted the memorandum issued in a related appeal.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, Fourth Judicial Department
WRITING FOR THE COURT	Whalen, P.J.; Centra, J.; Lindley, J.; Troutman, J.; Winslow, J.
JURISDICTION	New York
DECIDED	November 17, 2017
DOCKET	1165 CAF 16-01541
DISPOSITION	dismissed
PROCEDURAL POSTURE	Respondent appealed from an order of the Oswego County Family Court in a Family Court Act article 6 proceeding that, among other things, awarded petitioner sole legal custody of the subject child.
PRECEDENTIAL VALUE	Published opinion; precedential value subject to applicable New York appellate rules.
PARTIES	Gregory F. Babcock v. Rachel A. Montalbano

TOPICS

- family law procedure
- child custody
- appellate procedure

PRACTICE AREAS

- Family law
- appellate procedure

QUESTIONS PRESENTED

1. Whether the appeal from the Family Court's custody order should be dismissed.

HOLDINGS

1. The appeal was unanimously dismissed without costs.

KEY QUOTATIONS

*“It is hereby ORDERED that said appeal is unanimously dismissedwithout costs.” (*1)*

FACTUAL BACKGROUND

The proceeding concerned custody of a subject child under Family Court Act article 6. The Family Court awarded Rachel A. Montalbano sole legal custody. Gregory F. Babcock appealed that order.

PROCEDURAL HISTORY

The Family Court, Oswego County, entered an order on July 12, 2016 awarding petitioner sole legal custody of the subject child. Gregory F. Babcock appealed, and the Appellate Division, Fourth Department unanimously dismissed the appeal without costs, stating that the disposition was governed by the memorandum in the related appeal.

DISPOSITION

dismissed

CASES CITED

- Matter of Montalbano v Babcock (appeal No. 2)

OPINION

PER CURIAM.

Matter of Montalbano v Babcock (2017 NY Slip Op 08118) Matter of Montalbano v Babcock 2017 NY Slip Op 08118 Decided on November 17, 2017 Appellate Division, Fourth 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 November 17, 2017 SUPREME COURT OF THE STATE OF NEW YORK Appellate Division, Fourth Judicial Department PRESENT: WHALEN, P.J., CENTRA, LINDLEY, TROUTMAN, AND WINSLOW, JJ. 1165 CAF 16-01541 [*1]IN THE MATTER OF RACHEL A. MONTALBANO, PETITIONER-RESPONDENT, vGREGORY F. BABCOCK, RESPONDENT-APPELLANT.

(APPEAL NO. 1.) DAVIS LAW OFFICE, PLLC, OSWEGO (STEPHANIE N. DAVIS OF COUNSEL), FOR RESPONDENT-APPELLANT. D.J. & J.A. CIRANDO, ESQS., SYRACUSE (ELIZABETH deV. MOELLER OF COUNSEL), FOR PETITIONER-RESPONDENT.

COURTNEY S. RADICK, ATTORNEY FOR THE CHILD, OSWEGO. Appeal from an order of the Family Court, Oswego County (Thomas Benedetto, R.), entered July 12, 2016 in a proceeding pursuant to Family Court Act article 6.

The order, among other things, awarded petitioner sole legal custody of the subject child. It is hereby ORDERED that said appeal is unanimously dismissed without costs. Same memorandum as in Matter of Montalbano v Babcock ([appeal No. 2] ____ AD3d ____ [Nov. 17, 2017]). Entered: November 17, 2017 Mark W. Bennett Clerk of the Court