

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

Matter of Meguira v. Smallberg

2026 NY Slip Op 03808 · No. 2023-05797, 2023-05798 · Decided June 17, 2026

SUMMARY

The Appellate Division, Second Department affirmed orders awarding the mother sole legal custody of the parties' child and dismissing the father's petition for sole legal and residential custody. The court held that deterioration of the parties' relationship constituted a change in circumstances making joint decision-making untenable, and that the custody determination was supported by 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	Mark C. Dillon, J.P.; Paul Wooten, J.; Laurence L. Love, J.; Elena Goldberg Velazquez, J.
JURISDICTION	Supreme Court of the State of New York, Appellate Division, Second Judicial Department
DECIDED	June 17, 2026
DOCKET	2023-05797, 2023-05798
DISPOSITION	affirmed
PROCEDURAL POSTURE	The father appealed from a Family Court order granting the mother's petition to modify custody and awarding her sole legal custody, and from an order dismissing his petition seeking sole legal and residential custody.
STANDARD OF REVIEW	A custody determination based substantially on the hearing court's assessment of witness credibility will not be disturbed unless it lacks a sound and substantial basis in the record.
PRECEDENTIAL VALUE	Published opinion
PARTIES	Bradley H. Smallberg v. Rebecca M. Meguira

TOPICS

child custody

family law procedure

appellate procedure

standard of review

preservation of error

PRACTICE AREAS

family law

custody and visitation

QUESTIONS PRESENTED

1. Whether the evidence established a subsequent change in circumstances requiring modification of the existing joint legal custody arrangement.
2. Whether Family Court's award of sole legal custody to the mother, while maintaining her residential custody, had a sound and substantial basis in the record and served the child's best interests.
3. Whether the father's remaining appellate contention was preserved for review.

HOLDINGS

1. Modification of an existing custody arrangement requires a showing of a subsequent change in circumstances such that modification is necessary to protect the child's best interests.
2. The award of sole legal custody to the mother and maintenance of her residential custody was supported by a sound and substantial basis in the record and was in the child's best interests.
3. The father's remaining contention was unpreserved for appellate review.

KEY QUOTATIONS

“In order to modify an existing custody arrangement, there must be a showing of a subsequent change in circumstances so that modification is required to protect the best interests 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])

FACTUAL BACKGROUND

The parties were divorced in 2014 and had one child, born in 2012. Their judgment of divorce provided for joint legal custody, with residential custody to the mother and parental access to the father. Evidence showed that the parties' relationship had deteriorated to the point that joint decision-making was untenable, and that the mother was better suited to promote stability in the child's life.

PROCEDURAL HISTORY

The parties' 2014 judgment of divorce awarded joint legal custody to both parents, residential custody to the mother, and parental access to the father. The mother petitioned in 2018 for sole legal custody, and the father petitioned in 2019 for sole legal and residential custody. After a hearing and an in camera interview with the child, Family Court awarded the mother sole legal custody and dismissed the father's petition. The Appellate Division affirmed both orders.

DISPOSITION

affirmed

CASES CITED

- Matter of Walker v. Sterkowicz-Walker, 203 AD3d 1165, 1166
- Matter of Cabano v. Petrella, 169 AD3d 901, 902
- Matter of Gagos v. Delsalto, 213 AD3d 761
- Matter of Pierce v. Caputo, 214 AD3d 877, 878-879
- Matter of Gold v. Khalifa, 223 AD3d 803, 805
- Matter of Dapp v. Shtaynberger, 240 AD3d 891, 892
- Matter of Salvati v. Salvati, 221 AD2d 541, 543

OPINION

Matter of Meguira v. Smallberg 2026 NY Slip Op 03808

PER CURIAM.

Matter of Meguira v Smallberg - 2026 NY Slip Op 03808 skip to main content It appears you are using Adblock. Please disable Adblock to best experience our website. Law Reporting Bureau Thomas J.K. Smith, State Reporter Court Decisions Resources About Home All Court Decisions Decisions Matter of Meguira v Smallberg 2026 NY Slip Op 03808 June 17, 2026 Appellate Division, Second Department Published by New York State Law Reporting Bureau pursuant to Judiciary Law § 431. This decision is uncorrected and subject to revision before publication in the Official Reports. In the Matter of Rebecca M. Meguira, respondent, v Bradley H. Smallberg, appellant. (Proceeding No. 1) In the Matter of Bradley H. Smallberg, appellant, Rebecca M. Meguira, respondent. (Proceeding No. 2) Supreme Court of the State of New York, Appellate Division, Second Judicial Department Decided on June 17, 2026 2023-05797, 2023-05798, (Docket Nos. V-3933-18/18A, V-1815-19/19A) Mark C. Dillon, J.P. Paul Wooten Laurence L. Love Elena Goldberg Velazquez, JJ. The Law Offices of Joseph H. Nivin, P.C., Forest Hills, NY, for appellant. Rebecca Meguira, named herein as Rebecca M. Meguira, Forest Hills, NY, respondent pro se. Robert E. Silverberg, Forest Hills, NY, attorney for the child. [*1] DECISION & ORDER In related proceedings pursuant to Family Court Act article 6, the father appeals from (1) an order of the Family Court, Queens County (Mildred T. Negron, J.), dated May 26, 2023, and (2) an order of dismissal of the same court also dated May 26, 2023. The order, insofar as appealed from, after a hearing, granted the mother's petition to modify the parties' judgment of divorce so as to award her sole legal custody of the parties' child. The order of dismissal dismissed the father's petition to modify the parties' judgment of divorce so as to award him sole legal and residential custody of the parties' child. ORDERED that the order is affirmed insofar as appealed from; and it is further, ORDERED that the order of dismissal is affirmed; and it is further, ORDERED that one bill of costs is awarded to the mother. The parties, who were married, have

one child in common, born in 2012. The parties were divorced by a judgment dated June 30, 2014. The judgment of divorce awarded the parties joint legal custody of the child with residential custody to the mother and parental access to the father. In 2018, the mother filed a petition to modify the custody provisions of the parties' judgment of divorce so as to award her sole legal custody of the child. In 2019, the father filed a petition to modify the custody provisions of the parties' judgment of divorce so as to award him sole legal and residential custody of the child. After a hearing and an in camera interview with the child, the Family Court, inter alia, awarded the mother sole legal custody of the child and dismissed the father's petition. The father appeals. In order to modify an existing custody arrangement, there must be a showing of a subsequent change in circumstances so that modification is required to protect the best interests of the child (see *Matter of Walker v Sterkowicz-Walker* , 203 AD3d 1165 , 1166). The paramount concern when making such a determination is the best interests of the child under the totality of the circumstances (see *Matter of Cabano v Petrella* , 169 AD3d 901 , 902). Since the court's determination depends to a great extent upon its assessment of, among other things, the credibility of the witnesses, the court's determination should not be disturbed unless it lacks a sound and substantial basis in the record (see *Matter of Gagos v Delsalto* , 213 AD3d 761). Here, the evidence of the deterioration of the parties' relationship, which made joint decision making untenable, is a change of circumstances warranting a change in the parties' joint legal custody arrangement (see *Matter of Pierce v Caputo* , 214 AD3d 877, 878-879). Contrary to the father's contention, the Family Court's determination to modify the judgment of divorce so as to award the mother sole legal custody of the child and maintain the mother's residential custody has a sound and substantial basis in the record (see *Matter of Gold v Khalifa* , 223 AD3d 803 , 805). The evidence presented at the hearing demonstrated, inter alia, that the mother was better suited to promote stability in the child's life and that awarding her sole legal custody and maintaining her residential custody was in the child's best interests (see *Matter of Dapp v Shtaynberger* , 240 AD3d 891 , 892; *Matter of Salvati v Salvati* , 221 AD2d 541, 543). The father's remaining contention is unpreserved for appellate review. DILLON, J.P., WOOTEN, LOVE and GOLDBERG VELAZQUEZ, JJ., concur. ENTER: Darrell M. Joseph Clerk of the Court Court Decisions All Court Decisions Official Reports Service Bound Volumes Decision Search Resources RSS Feeds Style Manual Citation Tools Opinion Formatting & Privacy Guidelines Opinion Selection Criteria Legal Research Portal Site Index About About the Law Reporting Bureau About our Operations Contact Us Twitter Quick Contact Info 17 Lodge Street Albany, NY 12207 Phone: (518) 453-6900 Links to or from other sites do not signify endorsement or relationship with them.