

198 A.D.3d 664
Supreme Court, Appellate Division,
Second Department, New York.

In the Matter of Michael
Philip **WAGNER**, appellant,
v.
Emily Christine **DEL VALLE**, respondent.

2020–01756
|
(Docket No. V–14882–15/17B)
|
Argued—September 10, 2021
|
October 6, 2021

Attorneys and Law Firms

Daniel Lawrence Pagano, White Plains, NY, for appellant.

Scott Stone, White Plains, NY, for respondent.

Stephen P. Gold, White Plains, NY, attorney for the child.

CHERYL E. CHAMBERS, J.P., FRANCESCA E.
CONNOLLY, JOSEPH A. ZAYAS, DEBORAH A.
DOWLING, JJ.

DECISION & ORDER

In a proceeding pursuant to Family Court Act article 6, the father appeals from an order of the Family Court, Westchester County (Rachel Hahn, J.), dated February 7, 2020. The order, insofar as appealed from, after a hearing, granted that branch of the father's petition which was for parental access only to the extent of awarding him supervised parental access with the child.

ORDERED that the order is affirmed insofar as appealed from, without costs or disbursements.

The parties, who were never married, have one child in common, born in October 2015. In an order dated February 22, 2016, which was entered upon the father's default and after an inquest, the mother was awarded sole legal and physical custody of the child. In August 2017, the father *336 filed a petition to modify the prior order so as to award him, inter alia, parental access with the child. In an order dated February 7, 2020, the Family Court, after a fact-finding hearing, among other things, granted that branch of the father's petition which was for parental access only to the extent of awarding him supervised parental access with the child. The father appeals.

Supervised parental access is appropriately required only where it is established that unsupervised parental access would be detrimental to the child (*see Matter of Livesey v. Gulick*, 194 A.D.3d 1045, 1048, 149 N.Y.S.3d 479; *Matter of Masri v. Masri*, 171 A.D.3d 1183, 1185, 99 N.Y.S.3d 61). The determination of whether parental access should be supervised is a matter within the sound discretion of the hearing court, and its findings will not be disturbed on appeal unless they lack a sound and substantial basis in the record (*see Matter of Lynch v. Fittipaldi–Lynch*, 183 A.D.3d 741, 742, 121 N.Y.S.3d 911; *Matter of Masri v. Masri*, 171 A.D.3d at 1185, 99 N.Y.S.3d 61).

Here, contrary to the father's contention, the Family Court's determination that it was in the best interests of the child to award the father supervised parental access is supported by a sound and substantial basis in the record (*see Matter of Livesey v. Gulick*, 194 A.D.3d at 1048, 149 N.Y.S.3d 479; *Matter of Pritchard v. Coelho*, 177 A.D.3d 887, 888, 115 N.Y.S.3d 37).

The father's remaining contentions are without merit.

CHAMBERS, J.P., CONNOLLY, ZAYAS and DOWLING,
JJ., concur.

All Citations

198 A.D.3d 664, 152 N.Y.S.3d 335 (Mem), 2021 N.Y. Slip Op. 05345