

State of New York
Supreme Court, Appellate Division
Third Judicial Department

Decided and Entered: April 6, 2006

97000

In the Matter of NORBERT YY.
and Another, Neglected
Children.

ESSEX COUNTY DEPARTMENT OF
SOCIAL SERVICES et al.,
Respondent;

MEMORANDUM AND ORDER

TAMMY A.,
Respondent.

NORBERT B.,
Appellant.

Calendar Date: February 23, 2006

Before: Mercure, J.P., Peters, Carpinello, Mugglin and
Lahtinen, JJ.

Alan J. Burczak, Plattsburgh, for appellant.

Richard B. Meyer, Essex County Department of Social
Services, Elizabethtown, for Essex County Department of Social
Services, respondent.

Diane Webster-Brady, Plattsburgh, for Tammy A., respondent.

Mary Cosgrove Militano, Scotia, Law Guardian.

Carpinello, J.

Appeal from an order of the Family Court of Essex County (Ryan, J.), entered August 16, 2004, which granted petitioner's application, in a proceeding pursuant to Family Ct Act article 10, to extend placement of respondent's children with petitioner.

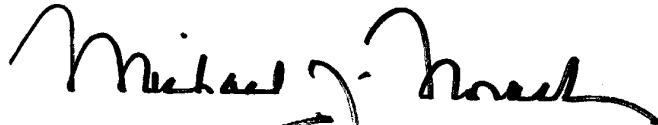
The two children who are the subject of this neglect proceeding were placed in foster care in July 2003. This placement occurred during the pendency of a prior appeal to this Court involving a child custody dispute between their parents. In May 2004, petitioner sought to extend the children's placement in foster care for an additional year, which was opposed by their father.

Following a hearing, Family Court granted petitioner's application prompting this appeal by the father. In the meantime, however, not only did the subject order extending placement expire, but both parents consented to an order placing sole legal and physical custody of the children with certain family members. This being the case, the father's appeal from the order extending placement is moot (see Matter of Trebor UU. [Tsharnia VV.], 287 AD2d 830 [2001]; Matter of Jerry XX. [Nora S.], 243 AD2d 988, 988-989 [1997]; see also Matter of Senator NN. [Donna NN.], 21 AD3d 1187, 1188 [2005]; Matter of Thomas JJ. [Shirley KK.], 14 AD3d 953, 954-955 [2005]). Moreover, we are unpersuaded that an exception to the mootness doctrine has been demonstrated (see Matter of Trebor UU. [Tsharnia VV.], supra; Matter of Jerry XX. [Nora S.], supra; see also Matter of Hearst Corp. v Clyne, 50 NY2d 707, 713-715 [1980]).

Mercure, J.P., Peters, Mugglin and Lahtinen, JJ., concur.

ORDERED that the appeal is dismissed, as moot, without costs.

ENTER:



Michael J. Novack
Clerk of the Court