

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

Decided and Entered: November 29, 2007

501951

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In the Matter of FANTASIA Y.  
and Others, Alleged to be  
Neglected Children.

CLINTON COUNTY DEPARTMENT OF  
SOCIAL SERVICES,  
Respondent;

MEMORANDUM AND ORDER

JEFFREY Y.,  
Appellant.

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Calendar Date: October 10, 2007

Before: Cardona, P.J., Peters, Spain, Carpinello and  
Lahtinen, JJ.

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Paul J. Connolly, Delmar, for appellant.

Christine G. Berry, Clinton County Department of Social  
Services, Plattsburgh, for respondent.

Aaron Turetsky, Law Guardian, Keeseville.

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Carpinello, J.

Appeal from an order of the Family Court of Clinton County  
(Lawliss, J.), entered December 14, 2006, which granted  
petitioner's application, in a proceeding pursuant to Family Ct  
Act article 10, to adjudicate respondent's children to be  
neglected.

In October 2006, this neglect proceeding was commenced  
against respondent based on allegations that he had failed to

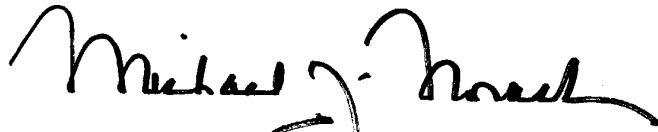
take all necessary steps to obtain lifesaving medical treatment for his youngest daughter, who was then suffering from end stage liver disease and in dire need of a transplant. He thereafter, with the advice of counsel, consented to a finding of neglect with respect to all of his children pursuant to Family Ct Act § 1051. Family Court then entered a fact-finding and dispositional order which, as relevant here, adjudicated the children to be neglected. Respondent now appeals.

This appeal must be dismissed since it is well settled that no appeal lies from an order entered on consent (see e.g. Matter of Monica T., \_\_\_ AD3d \_\_\_, \_\_\_, 842 NYS2d 923, 924 [2007]; Matter of Cheyenne QQ., 39 AD3d 1044, 1045 [2007]; Matter of Cheyenne QQ., 37 AD3d 977, 977-978 [2007]; Matter of Elijah Q., 36 AD3d 974, 975 [2007], lv denied 8 NY3d 809 [2007]; Matter of Dawn N., 4 AD3d 634, 635 [2004], lv dismissed 2 NY3d 786 [2004]). Respondent's argument that his consent was not knowing, intelligent or voluntary should have been pursued in a motion to vacate the order (see Family Ct Act § 1051 [f]; § 1061; Matter of Cheyenne QQ., 37 AD3d at 978). Even if we were to consider the ent, we would find it to be patently without merit since the record reveals that, prior to permitting respondent to consent to the finding of neglect, Family Court engaged in a thorough colloquy with him to ensure that he understood the legal effect and consequences of his consent and that such consent was knowingly and voluntarily given (see Family Ct Act § 1051 [f]; see also Matter of Jonathan LL., 294 AD2d 752, 753 [2002]).

Cardona, P.J., Peters, Spain and Lahtinen, JJ., concur.

ORDERED that the appeal is dismissed, without costs.

ENTER:

A handwritten signature in black ink, appearing to read "Michael J. Novack". The signature is fluid and cursive, with a large loop at the end.

Michael J. Novack  
Clerk of the Court