

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

Decided and Entered: January 29, 2009

503076

In the Matter of SIMEON F.,
Alleged to be a Neglected
Child.

ST. LAWRENCE COUNTY DEPARTMENT
OF SOCIAL SERVICES,
Respondent;

AHSHELLA G.,
Appellant.

(Proceeding No. 1.)

MEMORANDUM AND ORDER

In the Matter of SIMEON F.,
Alleged to be a Neglected
Child.

ST. LAWRENCE COUNTY DEPARTMENT
OF SOCIAL SERVICES,
Respondent;

LAWRENCE F.,
Appellant.

(Proceeding No. 2.)

Calendar Date: December 16, 2008

Before: Cardona, P.J., Mercure, Lahtinen, Malone Jr. and
Stein, JJ.

John A. Cirando, Syracuse, for Ahshella G., appellant.

Livingston L. Hatch, Plattsburgh, for Lawrence F.,
appellant.

David W. Willer, St. Lawrence County Department of Social Services, Canton, for respondent.

Jeffrey E. McMorris, Law Guardian, Glens Falls.

Mercure, J.

Appeals from two orders of the Family Court of St. Lawrence County (Potter, J.), entered June 21, 2007, which, among other things, granted petitioner's applications, in two proceedings pursuant to Family Ct Act article 10, to adjudicate respondents' child to be neglected.

Respondents, Ahshella G. (hereinafter the mother) and Lawrence F. (hereinafter the father), are the parents of two children, the younger of whom (born in 2005) is the subject of these neglect proceedings. The petitions alleged that both respondents have histories of mental illness, including hospitalizations and a lack of cooperation with treatment and taking medication as prescribed, as well as histories of homelessness and transient living. Indeed, the mother was an inpatient at a hospital mental health unit throughout the majority of her pregnancy and at the time of the child's birth. Following fact-finding and dispositional hearings, Family Court found the child to be neglected by both respondents within the meaning of Family Ct Act § 1012, and ordered that the child's placement with petitioner continue.

Respondents separately appeal,¹ and both have since voluntarily surrendered their parental rights. Respondents have not filed notices of appeal in connection with their surrender of parental rights; indeed, no challenges to the voluntariness of those surrenders have been brought to our attention. Accordingly, these appeals are moot (see Matter of Vivian 00., 44

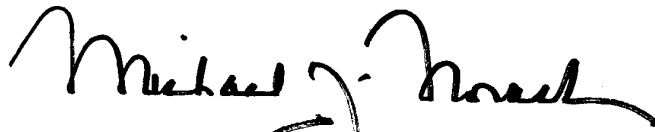
¹ Although the mother's notice of appeal is misdated, we treat it as valid in the interest of justice (see CPLR 5520 [c]).

AD3d 1104, 1105 [2007]; Matter of Raychael L.W., 298 AD2d 829, 829 [2002], lv denied 99 NY2d 504 [2002]; Matter of Gerrod BB., 284 AD2d 584, 585 n [2001]; cf. Matter of Matthew C., 227 AD2d 679, 680-681 [1996]), and we are unpersuaded that the exception to the mootness doctrine applies under the circumstances presented here (see Matter of Vivian OO., 34 AD3d 1084, 1085 [2006]; Matter of Norbert YY., 28 AD3d 815, 815 [2006]; cf. Matter of Melinda D., 31 AD3d 24, 27-28 [2006]).

Cardona, P.J., Lahtinen, Malone Jr. and Stein, JJ., concur.

ORDERED that the appeals are dismissed, as moot, 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