

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

Decided and Entered: January 22, 2009

504810

In the Matter of CHEYENNE T.
and Another, Abandoned
Children.

CHENANGO COUNTY DEPARTMENT OF
SOCIAL SERVICES,
Respondent;

MEMORANDUM AND ORDER

THOMAS S.,
Appellant.

Calendar Date: January 8, 2009

Before: Cardona, P.J., Peters, Rose, Lahtinen and Kane, JJ.

Kelly M. Corbett, Fayetteville, for appellant.

Rose, J.

Appeal from an order of the Family Court of Chenango County (Sullivan, J.), entered April 2, 2008, which in a proceeding pursuant to Social Services Law § 384-b, denied respondent's motion to vacate a prior order of the court.

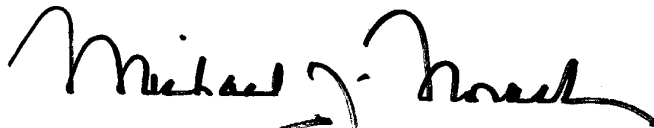
By order entered November 5, 2004, Family Court adjudicated respondent's children to be abandoned and terminated his parental rights. Upon appeal, this Court affirmed (Matter of Cheyenne S., 20 AD3d 748 [2005]). In March 2008, respondent sought to again appeal and/or vacate Family Court's November 2004 order. Family Court dismissed respondent's application based upon, among other things, his failure to serve petitioner. Respondent now appeals.

Respondent's counsel seeks to be relieved of her assignment upon the ground that there are no nonfrivolous issues to be pursued on appeal (see Anders v California, 386 US 738 [1967]; Matter of William XX. v Broome County Dept. of Social Servs., 11 AD3d 735 [2004]; cf. Matter of Green v Keough, 32 AD3d 591 [2006]). Upon our review of the record and submissions, we agree. Accordingly, counsel's application to be relieved of her assignment is granted.

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

ORDERED that the order is affirmed, without costs, and application to be relieved of assignment granted.

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