

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

Decided and Entered: December 17, 2009

505675

In the Matter of CHLOE Q.,
a Neglected Child.

CLINTON COUNTY DEPARTMENT OF
SOCIAL SERVICES,
Respondent;

MEMORANDUM AND ORDER

DAWN Q.,
Respondent.

JASON Q.,
Appellant.

Calendar Date: October 15, 2009

Before: Peters, J.P., Rose, Kane, Kavanagh and McCarthy, JJ.

Marcel J. Lajoy, Albany, for appellant.

John Dee, Department of Social Services, Plattsburgh, for
Clinton County Department of Social Services, respondent.

Francisco Berry, Law Guardian, Ithaca.

McCarthy, J.

Appeal from an order of the Supreme Court (Lawliss, J.),
entered September 26, 2008 in Clinton County, which, in a
proceeding pursuant to Family Ct Act article 10-A, extended
placement of the subject child.

Jason Q. (hereinafter the father) was convicted of various
crimes involving the sexual abuse of his stepson, who is the

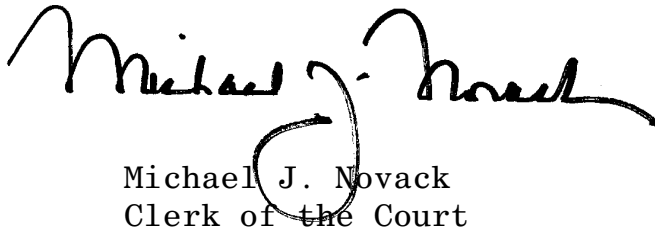
child of respondent (hereinafter the mother). The father and the mother are the parents of Chloe Q. (born in 2002). As a result of the sexual abuse and the mother's support of the father in connection with his criminal trial, Supreme Court found both children to be neglected. The children were placed in the care of petitioner and came to reside in the certified foster home of their maternal grandparents. A permanency hearing was held on August 27, 2008 which resulted in an order extending placement of the children with petitioner and their grandparents. The father, who is and will continue to be incarcerated for many years, filed an appeal with respect to the continued placement of his daughter, contending that it is in the child's best interests to be returned to the mother. The mother did not file an appeal.

In their briefs, petitioner and the attorney for the daughter notified this Court that subsequent to the filing of this appeal, the father, through his attorney, consented to an order granting custody of the daughter to the maternal grandparents. Although this Court is generally without power to consider matters not included in the record on appeal, there is an exception for considering reliable documents, the existence and accuracy of which are not in dispute (see Crawford v Merrill Lynch, Pierce, Fenner & Smith, 35 NY2d 291, 299 [1974]; Interrante v Rozzi, 26 AD3d 704, 706 [2006]; Matter of Park Realty Corp. v Hydrania, Inc., 17 AD3d 898, 899 [2005]). The father has filed no reply disputing the existence and accuracy of the custody order. In addition, the order granting custody upon consent is a matter of public record of which we may take judicial notice (see Brandes Meat Corp. v Cromer, 146 AD2d 666, 667 [1989]). Accordingly, we deem this appeal moot and do not reach the merits (see generally Matter of Hearst Corp. v Clyne, 50 NY2d 707, 714 [1980]; King v Jackson, 52 AD3d 974, 975 [2008]).

Peters, J.P., Rose, Kane and Kavanagh, JJ., concur.

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

ENTER:

A handwritten signature in black ink, appearing to read "Michael J. Novack". The signature is written in a cursive style with a large, prominent initial "M".

Michael J. Novack
Clerk of the Court