

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

Decided and Entered: November 5, 2009

506332

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In the Matter of MICHAELA PP.  
and Others, Neglected  
Children.

BROOME COUNTY DEPARTMENT OF  
SOCIAL SERVICES,  
Respondent;

MEMORANDUM AND ORDER

DERWOOD PP.,  
Appellant.

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Calendar Date: October 13, 2009

Before: Cardona, P.J., Spain, Lahtinen, Stein and McCarthy, JJ.

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Abbie Goldbas, Utica, for appellant.

Steven J. Getman, Law Guardian, Ovid.

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Cardona, P.J.

Appeal from an order of the Family Court of Broome County (Charnetsky, J.), entered December 5, 2008, which granted petitioner's application, in a proceeding pursuant to Family Ct Act article 10-A, to approve petitioner's permanency plans for the subject children.

Respondent is the father of two children (born in 1994 and 1995). In 2004, the children were adjudicated to be neglected and placed in foster care. The children's mother surrendered her parental rights in 2008, and petitioner filed a petition seeking to terminate respondent's parental rights on the ground of abandonment. Petitioner also sought to alter the children's

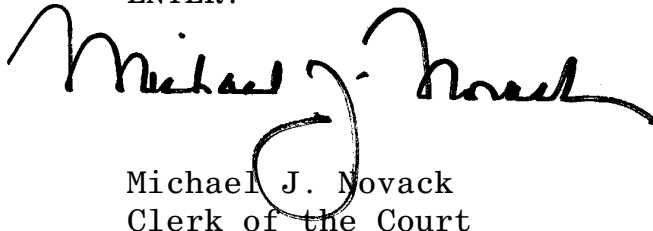
permanency plans to free them for adoption, and a permanency hearing was scheduled prior to the resolution of the abandonment petition. The parties ultimately agreed to permanency plans which had the stated goal of returning the children to respondent pending the outcome of the abandonment petition. Family Court issued an order embodying that agreement, and respondent appeals.<sup>1</sup>

Respondent's counsel seeks to be relieved from her assignment, citing the lack of nonfrivolous issues to be raised on this appeal. Inasmuch as no appeal lies from an order entered upon consent, the appeal must be dismissed (see Matter of Michael OO., 53 AD3d 709, 709 [2008]; Matter of Cheyenne QQ., 37 AD3d 977, 977-978 [2007]). As such, counsel's application to be relieved is academic and need not be addressed (see Matter of Carey K., 265 AD2d 617, 617-618 [1999]).

Spain, Lahtinen, Stein and McCarthy, JJ., concur.

ORDERED that the appeal is dismissed, without costs.

ENTER:



Michael J. Novack  
Clerk of the Court

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<sup>1</sup> The order from which respondent appeals was later amended to include minor corrections which are not relevant here. Under these circumstances, the Court may review the amended order without the filing of another notice of appeal (see Matter of Anthony TT., 61 AD3d 1137, 1137 n [2009], lv denied 12 NY3d 715 [2009]).