

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

Decided and Entered: June 21, 2012

512719

In the Matter of AMEILLIA RR.,
Alleged to be a Neglected
Child.

ST. LAWRENCE COUNTY DEPARTMENT
OF SOCIAL SERVICES,
Respondent;

MEMORANDUM AND ORDER

MEGAN SS.,
Appellant,
et al.,
Respondent.

JERED RR.,
Respondent.

Calendar Date: May 21, 2012

Before: Rose, J.P., Spain, Malone Jr., Kavanagh and
Egan Jr., JJ.

Lisa A. Burgess, Indian Lake, for appellant.

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

John A. Cirando, Syracuse, for Jered RR., respondent.

Aaron Turetsky, Keeseville, attorney for the child.

Spain, J.

Appeal from an order of the Family Court of St. Lawrence County (Potter, J.), entered July 5, 2011, which, in a proceeding pursuant to Family Ct Act article 10, granted a motion by Jered RR. seeking a protective order pursuant to CPLR 3103.

Petitioner commenced this proceeding pursuant to Family Ct Act article 10 alleging that respondents Megan SS. (hereinafter the mother) and her live-in partner, Thomas TT., had neglected the mother's child, Ameillia RR. (born in 2008). The petition alleged that the child had sustained bruises and other unexplained injuries while in respondents' sole care. Respondents sought to depose the child's father, Jered RR. (hereinafter the father), and served him with a subpoena duces tecum requesting all photographs of the child's alleged injuries and all evidence in his possession documenting the injuries. The father thereafter sought a protective order preventing respondents from deposing him and seeking to quash the subpoena duces tecum. Family Court granted the father's motion and the mother now appeals that order.

We have been advised that Family Court subsequently conducted a hearing and issued an order of fact-finding and disposition entered February 15, 2012 concluding that the mother and Thomas TT. had neglected the child.¹ Placement of the child was continued with the father, with supervised visits to the mother. Thomas TT. was directed to have no contact with the child and orders of protection were issued. The mother thereafter appealed separately from those orders, which are not yet before us.

Although intermediate orders from Family Ct Act article 10 abuse and neglect proceedings are appealable as of right (see Family Ct Act § 1112 [a]), for the reasons stated in our prior decision related to this proceeding, we conclude that the

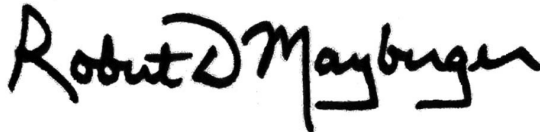
¹ The fact-finding and dispositional order reflects that the father appeared with counsel and participated as an interested party intervenor (see Family Ct Act § 1035 [d]).

mother's appeal from this intermediate discovery order is moot (see Matter of Ameillia RR. [Megan SS.], 95 AD3d 1525 [2012]). The mother's appeal of Family Court's fact-finding and dispositional order brings up for review all non-final orders that affected the judgment (see Family Ct Act § 1118; CPLR 5501 [a] [1]).

Rose, J.P., Malone Jr., Kavanagh and Egan Jr., JJ., concur.

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

ENTER:

A handwritten signature in black ink that reads "Robert D. Mayberger". The signature is written in a cursive, slightly slanted style.

Robert D. Mayberger
Clerk of the Court