

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

Decided and Entered: October 24, 2013

512728

In the Matter of JUDY UU.,
Appellant,

v

MEMORANDUM AND ORDER

TROY SS.,
Respondent.

(And Another Related Proceeding.)

Calendar Date: September 10, 2013

Before: Lahtinen, J.P., Stein, Spain and Egan Jr., JJ.

Mitch Kessler, Cohoes, for appellant.

Marian B. Cocose, Bearsville, attorney for the child.

Lahtinen, J.P.

Appeals from two orders of the Family Court of Ulster County (McGinty, J.), entered May 5, 2011, which dismissed petitioner's applications, in two proceedings pursuant to Family Ct Act article 6, to, among other things, hold respondent in violation of a prior order of custody and visitation.

Petitioner (hereinafter the mother) and respondent (hereinafter the father) have been involved in protracted proceedings regarding custody and visitation of their now 15-year-old son (see Matter of Judy UU. v Troy SS., 80 AD3d 819 [2011], lv denied 16 NY3d 707 [2011]; Matter of Troy SS. v Judy UU., 69 AD3d 1128 [2010], lv dismissed and denied 14 NY3d 912 [2010]). In March 2011, the mother commenced the two instant proceedings pro se, the first seeking modification of the custody

order and the second alleging that the father had violated the custody order. When she appeared with counsel before Family Court regarding the petitions, her counsel acknowledged that more detailed allegations were necessary and asked to be permitted to file amended petitions. Instead, Family Court issued orders in May 2011 dismissing both petitions, without prejudice, and it continued counsel's assignment to represent the mother. With counsel's assistance, new petitions have been filed. However, the mother appeals from the two orders of May 2011.

The mother acknowledges in her brief that she is not now challenging the order dismissing the modification petition and, accordingly, her appeal from such order is abandoned (see Matter of Anesi v Brennan, 75 AD3d 791, 792 n [2010]). Although she argues it was error to dismiss the violation petition, the appeal from that order is moot since a subsequent violation petition predicated upon the same alleged conduct was filed and eventually dismissed, with prejudice, by Family Court (Lalor, J.) in November 2012 (see generally Matter of King v Jackson, 52 AD3d 974, 975 [2008]; Matter of Baraby v Baraby, 186 AD2d 890, 890 [1992]).

Stein, Spain and Egan Jr., JJ., concur.

ORDERED that the order entered May 5, 2011 dismissing the modification petition is affirmed, without costs.

ORDERED that the appeal from the order entered May 5, 2011 dismissing the violation petition is dismissed, as moot, without costs.

ENTER:



Robert D. Mayberger
Clerk of the Court